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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1935

No. 31

G. S. ROGERS, DOING BUSINESS AS REX DUPLEX FITTING COMPANY, AND R. W. DUSENBERRY, PETITIONERS,

vs.

ALEMITE CORPORATION

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED APRIL 24, 1935.

CERTIORARI GRANTED MAY 20, 1935.

SUPREME COURT OF THE UNITED STATES

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[fol. 1]

IN UNITED STATES DISTRICT COURT, WESTERN PENNSYLVANIA

Docket Entries

July 28, 1932, Bill of complaint filed.

July 28, 1932, Subpœna issued.

July 28, 1932, Motion for preliminary injunction filed.

July 28, 1932, Affidavit of M. K. Ulbrech filed with Exhibit B.

July 28, 1932, Exhibit A (Ulrich affidavit) filed.

July 28, 1932, Affidavit of J. E. Otis, Jr. filed.

July 28, 1932, Exhibits A, B, C, D, E, F, G, H, I, J, K, L (Otis affidavit) filed.

July 28, 1932, Order made granting a rule on defendants to show cause why a preliminary injunction should not issue; rule returnable Aug. 30, 1932; and allowing the parties to retain possession of exhibits.

Aug. 4, 1932, Subpœna returned served on R. H. Kidd, at Pittsburgh, Pa. on August 1, 1932; served on G. S. Rogers, doing business as Rex Duplex Fitting Co. and R. W. Dusenberry together with bill of complaint, affidavits, motion for preliminary injunction and order to show cause, at Pittsburgh, Pa. on July 29, 1932.

Aug. 5, 1932, Præcipe for appearance of Clarke & Doolittle, J. R. Van Kirk and Thos. Griggs for defendants filed.

Aug. 11, 1932, Stipulation filed postponing hearing on motion for preliminary injunction to Sept. 22, 1932; defts. [fol. 2] have until Sept. 10, 1932 for filing reply papers; plaintiff has until Sept. 19, 1932 for filing rebuttal papers.

Sept. 9, 1932, Stipulation filed extending time for defendants to file their answer to September 10, 1932.

Sept. 9, 1932, Affidavit of G. S. Rogers filed.

Sept. 9, 1932, Affidavit of R. W. Dusenberry filed.

Sept. 9, 1932, Answer of G. S. Rogers and R. W. Dusenberry filed.

Sept. 19, 1932, Affidavit of J. D. McClellan filed.

Sept. 19, 1932, Affidavit of F. R. Ross filed.

Sept. 19, 1932. Affidavit of Edwin J. Bolluff filed.

Sept. 19, 1932, Affidavit of Don Alexander filed.

Sept. 19, 1932, Affidavit of Nelson Cornell filed.

Sept. 19, 1932, Affidavit of A. W. Herron filed.

Sept. 20, 1932, Affidavit of S. D. Miller filed.

Sept. 20, 1932, Affidavit of Robert H. Kidd filed.

Sept. 20, 1932, On petition of Clarke & Doolittle order entered granting leave to Clarke & Doolittle, J. R. Van Kirk and Thomas N. Griggs to withdraw their appearance for R. H. Kidd.

Sept. 22, 1932, Hearing held, Cav; McVicar, J.

Sept. 26, 1932, Defendants' reply to summary for plaintiff filed.

[fol. 3] Sept. 26, 1932, Order of court filed and entered directing that motion for preliminary injunction be granted against R. H. Kidd, and refusing motion as to G. S. Rogers and R. W. Dusenberry—let a decree be prepared accordingly.

Sept. 26, 1932, Order of court filed and entered directing that Bill of complaint be taken decree pro confesso against R. H. Kidd.

Oct. 19, 1932, Order of court filed and entered denying plaintiff's motion for preliminary injunction as to G. S. Rogers and R. W. Dusenberry.

Oct. 19, 1932, Order of court filed and entered directing that writ of preliminary injunction issue against R. H. Kidd enjoining R. H. Kidd from selling lubricating equipment.

Oct. 19, 1932, Injunction bond in the sum of $200.00 filed and approved.

Oct. 27, 1932, Decree filed and entered concluding that plaintiff is the owner of Letters Patent; said Letters patent are good and valid; defendant R. H. Kidd has infringed on said letters patent; writ of permanent injunction shall issue restraining R. H. Kidd from further infringement; this decree shall be without costs to either party.

Nov. 2, 1933, Hearing before Schoonmaker, J.

Nov. 3, 1933, Hearing continued.

Nov. 4, 1933, Hearing concluded, Cav.

Nov. 4, 1933, Trial memo filed.

[fol. 4] Jan. 12, 1934, Findings of fact, conclusions of law, and opinion filed and entered concluding that a decree may be submitted granting the plaintiff the relief prayed for in its bill of complaint.

Jan. 19, 1934, Final decree filed and entered adjudging certain patents good and valid, directing issuance of injunction and appointing Thos. D. Chantler, Esq. special master for accounting.

Jan. 19, 1934, Writ of injunction issued.

Jan. 20, 1934, Writ of injunction returned served on G. S. Rogers doing business as Rex Duplex Fitting Co. and R. W. Dusenberry at Pittsburgh, Pa. on January 19, 1934.

Feb. 15, 1934, Affidavit of G. S. Rogers and R. W. Dusenberry filed.

Feb. 15, 1934, Motion to amend decree and injunction filed.

Feb. 17, 1934, Hearing before Schoonmaker, J. arg list.

Feb. 17, 1934, Order of court filed and entered on motion to amend decree and injunction denying motion for modification.

Feb. 17, 1934, Defendant's petition for appeal filed.

Feb. 17, 1934, Order filed and entered allowing defendants' appeal.

Feb. 17, 1934, Assignments of error filed.

[fol. 5] Feb. 27, 1934, Appeal bond approved by court and filed.

Feb. 27, 1934, Citation issued returnable March 28, 1934.

April 28, 1934, Petition of defendants for extension of return day of citation.

April 28, 1934, Affidavit of Albin C. Ashlberg filed.

April 28, 1934, Order of court filed and entered extending return day of citation nunc pro tunc to June 1, 1934.

May 16, 1934, Transcript of testimony filed by leave of court.

May 16, 1934, Stipulation filed directing that at the time of the trial plaintiff was the owner of U. S. Letters Patent #1,307,734 patent in this suit etc.; plaintiff was at the time of trial a corporation organized and existing under the laws of State of Delaware; plaintiff was theretofore known as The Bassick Mfg. Co. and Alemite Mfg. Corp.

May 17, 1934, Stipulated præcipe for transcript of record on appeal filed by leave of court.

May 17, 1934, Stipulation re: original transcript filed by the leave of court.

[fol. 6] In United States District Court

Bill of Complaint—Filed July 28, 1932

Plaintiff, for complaint against defendants, alleges as follows:

1. Plaintiff, Alemite Corporation (formerly known as The Bassick Manufacturing Company and Alemite Manu-

facturing Corporation), is a corporation organized and existing under and by virtue of the laws of the State of Delaware, a citizen of Delaware, a resident of and having its principal place of business at Chicago, in the County of Cook and State of Illinois.

2. Defendant G. S. Rogers, doing business as Rex Duplex Fitting Company, and defendants R. W. Dusenberry and R. H. Kidd, are citizens of the United States and of the State of Pennsylvania, residing and having a regular and established place of business at Pittsburgh, Pennsylvania. Each of said defendants is within the jurisdiction of the United States District Court for the Western District of Pennsylvania, where they have jointly and severally committed acts of infringement of plaintiff's rights, of which complaint is made herein.

3. This Court has jurisdiction by reason of the fact that this is a suit in equity, arising under the patent laws of the United States, and plaintiff has no adequate remedy at law.

4. Plaintiff alleges, upon information and belief, that Arthur V. Gullborg, a citizen of the United States, being, [fol. 7] prior to December 21, 1918, the original, first and sole inventor of certain new and useful improvements in Lubricating Means, filed and prosecuted lawfully an application for United States patent therefor, and having complied in all respects with the statutes and the rules of the Patent Office, United States Letters Patent No. 1,307,734 was granted, lawfully and issued, pursuant to said application, on June 24, 1919.

5. Said invention of Arthur V. Gullborg was new, useful, not known or used by others in this country before his invention, not patented or described in any printed publications anywhere before his invention or more than two years prior to his application, not in public use or on sale in this country for more than two years prior to his said application for letters patent, not patented in any country by him or his legal representatives on applications filed more than one year before his said application in this country, and not abandoned. Said patent is now in full force and is hereby proffered and ready to be produced before the court.

6. Prior to the commencement of this suit, plaintiff became by lawful assignment duly recorded in the United

States Patent Office, and now is the sole owner of said United States patent No. 1,307,734, and of all rights thereunder, and of all rights of action for infringement thereof. Profert is hereby made of the original instruments upon which plaintiff's title is based.

7. The invention patented by said patent No. 1,307,734 is [fol. 8] a great utility and is of great value to the plaintiff and of great benefit to the public. Plaintiff and its predecessors have sold very extensively and introduced into public use, devices in which said patented invention is embodied, and the public and manufacturers have demanded and purchased from plaintiff and its predecessors such devices embodying said invention in very large and in very rapidly increasing quantities.

8. Plaintiff and its predecessors have marked all devices embodying said inventions made or sold by them in full compliance with the United States statutes.

9. The public has, in general acknowledged the validity of the aforesaid patent No. 1,307,734, and has respected plaintiff's rights therein and thereunder.

10. Heretofore, to-wit, on September 17, 1925, The Bassick Manufacturing Company brought a suit against Montgomery, Ward & Company, Inc., in the United States District Court at Chicago, Illinois, and thereafter The Larkin Automotive Parts Company of Dayton, Ohio, intervened in said suit and became a party defendant therein. The said suit came on for final hearing before his Honor, Judge Walter C. Lindley, upon Gullborg patents Nos. 1,307,733 and 1,307,734 and Zerk patent No. 1,475,980, and the court, after hearing the evidence offered in behalf of both sides and upon briefs, rendered an opinion and entered a decree sustaining the said patents and finding them infringed. An appeal was taken by the defendants and argued in due course before the United States Circuit Court of Appeals [fol. 9] for the Seventh Circuit, which in due course handed down an opinion affirming the decree of the District Court, as shown by the report in 19 Fed. (2d) 944.

11. The validity of the said Gullborg patent No. 1,307,734 was sustained and the patent found infringed by the United States Circuit Court of Appeals for the Sixth Circuit in certain appeals which were pending before and decided by

it on March 18, 1927, as reported in 18 Fed. (2d) 29. As appears in the said opinion, claim 12 of the Gullborg patent No. 1,307,734 was found invalid, and thereafter, to-wit, on August 29, 1927, in full compliance with the statutes relating to disclaimers, a disclaimer of claim 12 of said Gullborg patent was filed in the United States Patent Office.

12. The validity of the said patent No. 1,307,734 was sustained and the patent found infringed by the United States Circuit — of Appeals for the Second Circuit in the case of The Brassick Manufacturing Company vs. Adams Grease Gun Corporation, in an opinion filed by the court on July 14, 1931, as reported in 52 Fed. (2d) 36.

13. Plaintiff alleges, upon information and belief, that defendants, jointly and severally, in violation of plaintiff's rights under said patent No. 1,307,734, without any authority since the issuance of said patent, and within six years before the commencement of this suit within the District aforesaid, and elsewhere within the United States, have [fol. 10] threatened to infringe and have infringed said patent No. 1,307,734 by making and/or using and/or selling lubricating apparatus embodying said patented invention, and by making and/or using and/or selling devices designed and intended for use in apparatus embodying said patented invention. Because of defendants' joint and several infringement and defendants' joint and several threats to continue to commit acts in violation of plaintiff's rights and in infringement of plaintiff's patent, plaintiff has been and will be greatly and irreparably damaged, and defendants jointly and severally are about to obtain large profits which in equity will belong to plaintiff, the amount of which damages and profits plaintiff cannot ascertain except by an accounting.

Plaintiff, therefore, prays:

(a) That defendants be required to answer this bill of complaint, but not under oath, answer under oath being hereby expressly waived.

(b) That the court grant a preliminary injunction pending this suit, and a permanent injunction enjoining and restraining the defendants, jointly and severally, their agents, employees, associates, confederates and consignees, or any of them, from making and/or using and/or vending the

combinations patented in said patent, or any of the parts thereof, or any other device or devices embodying, or adapted or intended for use in apparatus embodying the invention claimed in said patent, or adapted to be used in systems or combinations embodying the same, either for original equipment or for replacement under the guise of "repairs" or otherwise, and from offering or advertising [fol. 11] so to do, and from aiding or abetting or in any way contributing to the infringement of said patent.

(c) That this cause be referred to a Master to take and report an account of the damages and profits accruing from defendants' joint and several infringement of said patent, and that plaintiff have judgment for the damages and profits so found and for the costs of this suit.

(d) That plaintiff have such other and further relief as equity may require.

Alemite Corporation, by J. E. Otis, Jr.; Smith, Buchanan, Scott and Gordon, Solicitors for Plaintiff; Williams, Bradbury, McCaleb and Hinkle, Counsel for Plaintiff.

Duly sworn to by J. E. Otis, Jr. Jurat omitted in printing.

[fol. 12] IN UNITED STATES DISTRICT COURT

ANSWER BY G. S. ROGERS AND R. W. DUSENBERRY—Filed Sept. 9, 1932

G. S. Rogers, doing business as Rex Duplex Fitting Company, and R. W. Dusenberry, certain defendants in the above-entitled cause, for answer to the bill of complaint of Alemite Corporation, for themselves, answer as follows:

I. Defendants admit the allegations of paragraph I of the bill of complaint, and the corporate status of plaintiff, as alleged in said paragraph.

II. Defendants admit the allegations of paragraph II as to themselves only, but deny that they have committed, either jointly or severally, any acts of infringement of plaintiff's patent rights, as alleged in the bill of complaint.

III. Defendants admit the allegations of paragraph III of the bill of complaint.

IV. Defendants admit the allegations of paragraph IV as to issue of the Letters Patent in suit No. 1307734, but deny [fol. 13] that the said Arthur V. Gullborg was the original, first and sole inventor of any broadly new and useful improvements in lubricating means, but on the contrary such improvements as are covered by the claims of said Letters Patent are specifically limited by their own terms and by the prior art to means essentially different in construction and operation from anything ever made, sold or used by these defendants.

V. Answering paragraph 5, defendants admit novelty, usefulness and utility of the specific features of invention covered by the claims of said Letters Patent No. 1307734 relied on in this suit, but deny that such novelty, usefulness or utility of said features is in any respect necessary or essential to successful operation of lubricant-applying mechanism, insofar as the improvement covered by said claims refers to bayonet joint construction or suction-actuated means for removing excess lubricant.

Answering further, defendants say that the described construction and operation of the alleged invention of said Letters Patent is so inaccurate, misleading and vague, and not sufficiently full, clear, concise and exact as to properly or sufficiently inform the public of its correct construction and operation.

VI. Answering paragraph 6, defendants admit that plaintiffs have proper title to the Letters Patent in suit No. 1307734.

VII. Defendants have no accurate knowledge of the facts alleged in paragraph 7; deny the same; and leave plaintiff to its proofs if the same is material.

[fol. 14] VIII. Defendants have no accurate knowledge of the facts alleged in paragraph 7; deny the same; and leave plaintiff to its proofs if the same is material.

IX. Defendants deny that the public has in general acknowledged the validity of Letters Patent No. 1307734 or has respected plaintiff's alleged rights therein and thereunder, but say that on the contrary various parties in and

throughout the United States have denied such validity and alleged exclusive rights under said patent.

X. Answering paragraph 10, defendants admit the facts therein alleged as to litigation under the particular patent in suit No. 1307734, also patent No. 1307733 of Gullborg, and 1475980 of Zerk, as reported in 19 Fed. (2d) 944, and that said decision established validity and infringement of claims 1, 2 and 6 of Gullborg patent No. 1307734 as to the particular defendants involved and the defense presented in that case. Defendants deny however that the construction involved in that litigation was the same as that complained of herein, and deny the bearing of the same, except as to validity.

XI. Defendants admit the allegations of paragraph 11 of the bill of complaint as alleged, but deny that any constructions referred to in either of the cases involved were similar to the construction of defendants' apparatus complained of herein.

XII. Defendants make the same answer to paragraph 12 of the bill of complaint.

[fol. 15] XIII. These defendants deny all of the allegations of paragraph 13 of the bill of complaint, or that they have infringed any claim or claims of Letters Patent No. 1307734 by either making, using or selling lubricating apparatus embodying said patented invention, or in making or using or selling lubricating devices designed and intended to be used in apparatus embodying said patented inventions, or that they have threatened or now threaten to commit acts of infringement in violation of plaintiff's rights or in violation of plaintiff's said Letters Patent, but always have been and are now fully respecting all lawful rights of plaintiff under and by virtue of said Letters Patent.

XIV. These defendants further answering say that they have never manufactured, sold or used fittings of any kind or any substitute for fittings like those of Gullborg patent No. 1307733 referred to in paragraph 10, nor have they ever made, sold or used any hose and coupling for fittings in which there was a slidable perforated sealing disk, or a sealing disk that was spring-pressed toward the outlet or slidable backwardly when coupled with a fitting, or that was

movable at all in the hose nozzle or coupling whereby any suction effect would result when uncoupled from a fitting, nor with any inclined bayonet slot adapted to draw the hose nozzle towards or against the fitting, and that defendant has not made or sold any hose with a coupling that is not adapted for use in connection with any other hose couplings or fittings of the prior lubricating art, as appears herein, and defendant has made and sold no lubricating [fol. 16] means not lawfully justified by the prior art, as disclosed in the following Letters Patent and publications:

United States Letters Patent

No. 8,251, patented July 29, 1851, to Aaron Richardson, of Bellows Falls, Ver.;

No. 249,194, patented Nov. 8, 1881, to Matthew R. Marks and Alfred Iverson, of Orlando, Fla.;

No. 456,295, patented July 21, 1891, to George Stedman, of New York, N. Y., and David R. Stedman, of Elizabeth, N. J.;

No. 947,807, patented Feb. 7, 1910, to John W. Faessler and Luther K. Smith, of Moberly, Mo.;

No. 950,263, patented Feb. 22, 1910, to Fred H. Harpster, of Hazleton, Pa.;

No. 1,017,654, patented Feb. 20, 1912, to Gerald de Grey, of Philadelphia, Pa.;

No. 1,117,762, patented Nov. 17, 1914, to Albert M. Barcus, of Raymond, Wash.;

No. 1,141,101, patented June 1, 1915, to Matthias G. Brown, of Gulfport, Miss.;

No. 1,150,420, patented Aug. 17, 1915, to William W. Davis and William Jaeschke, of San Francisco, Cal.;

No. 1,201,414, patented Oct. 17, 1916, to Frank D. Winkley, of Madison, Wis., on application filed May 1, 1916;

[fol. 17] No. 1,205,686, patented Nov. 21, 1916, to Henry Uhl, of Albany, Ore., on application filed Jan. 20, 1916;

Re No. 14,667, patent reissued June 10, 1919, to Frank D. Winkley, of Madison, Wis.;

No. 1,307,733, patented June 24, 1919, to Arthur V. Gullborg, of Chicago, Ill., on application filed Feb. 11, 1918;

British Letters Patent

No. 6940 of 1904, published in 1904, to Thomas Clarkson, for Pipe Joints;

No. 21,893, of 1906, published 1907, to Stephen Evans Alley and George Woodvine;

No. 26,134, of November 1912, published 1913, to William Charles Sharpe, Jr., for Coupling Device;

No. 3028, of 1915, published 1916, to Camille Seng, for Pipe Joint;

No. 121,863, of Mar. 1, 1918, published Jan. 1919, to James Pitkin & Co. and Alfred Frederick Allen, for Pipe Coupling;

No. 172,763, of 1920, published 1921, by Henry Thomas Roberts;

French Letters Patent

No. 468,869, of 1914, published July 18, 1914, to Camille Seng, for Pipe Joint;

No. 20,083, patent of Addition, of 1914, published Mar. 22, 1916, to Camille Seng, for Pipe Joints;

[fol. 18] German Letters Patent

No. 6118, published Nov. 1878, to Wilhelm Bitter, for Lubricating Means.

Other Publications

"Amnia," a magazine published April 25, 1914, in France and in the United States, on page 258, in an article entitled "Inventions nouvelles. . Raccord Instantane, Systeme Seng, Pour le Graissage a la Graisse Consistante"; also the following other

United States Letters Patent

No. 241,500, patented May 17, 1881, to Matthew R. Marks and Alfred Iverson, of Orlando, Fla.;

Re. No. 10,064, reissued Mar. 21, 1882, to Smith A. Skinner, of Hoosick Falls, N. Y.;

No. 615,623, patented Dec. 6, 1898, to Thomas A. King, of Jersey City, N. J.;

No. 617,591, patented Jan. 10, 1899, to Ernest A. Miller and Theodore E. Christman, of Jackson, Mich.;

No. 623,135, patented Apr. 18, 1899, to Gaston E. Cordeau, of New York, N. Y.;

No. 793,869, patented July 4, 1905, to Andrew H. Anderson, of Kellogg, Idaho;

No. 810,959, patented Jan. 30, 1906, to Howard C. Marmon, of Indianapolis, Ind.;

No. 863,878, patented Aug. 20, 1907, to John B. Reimund and Joseph W. Kyle, of Chicago, Ill.;

[fol. 19] No. 919,743, patented Apr. 27, 1909, to Homer R. Mason, of Wilkinsburg, Pa.;

No. 921,691, patented May 18, 1909, to Chester L. Friday, of Quincy, Ill.;

No. 947,807, patented Feb. 1, 1910, to John W. Faessler and Luther K. Smith, of Moberly, Mo.;

No. 950,263, patented Feb. 22, 1910, to Fred H. Harpster, of Hazelton, Pa.;

No. 976,787, patented Nov. 22, 1910, to William J. Donnelley, of San Francisco, Cal.;

No. 1,027,588, patented May 28, 1912, to Matthias G. Brown, of Gulfport, Miss.;

No. 1,071,890, patented Sept. 2, 1913, to John Desmond, of Chicago, Ill.;

No. 1,141,101, patented June 1, 1915, to Matthias G. Brown, of Gulfport, Miss.;

No. 1,322,357, patented Nov. 18, 1919, to Camile Seng, on application filed Dec. 23, 1915;

No. 1,337,408, patented Apr. 20, 1920, to William L. Morris, of Chicago, Ill., on application filed Sept. 7, 1916;

No. 1,377,023, patented May 3, 1921, to Bernard S. Nelson, of New Orleans, La., on application filed June 29, 1920; and many other patents and publications whose names and dates and places of publication are at this time unknown to these defendants, but which when discovered they pray leave to insert therein by amendment to this answer.

[fol. 20] XV. These defendants further answering, say that the alleged inventions set forth in the claims of said Letters Patent, unless limited to the construction of the coupler as shown and described for co-operation with a lubricant fitting, as defined in the claims in said Letters Patent in suit, are too broad if broadly construed, and do not rise to the dignity of invention and were not legally patentable over and above what is set forth and disclosed in said prior publications and patents heretofore listed, excepting only a limited construction based on the precise form specifically claimed in claims 1, 2, 3, 4 and 8 of the Letters Patent in suit.

XVI. These defendants further say, upon information and belief that their lawful right to sell their grease guns and couplings has been established by various courts of the United States, including the United States Circuit Court of Appeals for the Sixth Circuit in interpreting the scope of the claims of said Letters Patent in Lyman Mfg. Co. v. Bassick Mfg. Co., reported in 18 Fed. (2d) 29; that in said case the court relied for novelty and invention of said Gullborg patent No. 1,307,734 upon the slidable perforated spring-pressed sealing disk in the hose nozzle and which backed away under pressure on the fitting when the coupling was effected and automatically returnable upon uncoupling so as to create a re-acting or desirable suction effect, which construction this defendant has never made, sold or used; that said court did not hold that the claims of the said patent lawfully covered a lubricating construction wherein the grease gun and hose coupling did not have the above mentioned seal- [fol. 21] ing disk arrangement, or that the patent lawfully covered the combination of an old grease gun and an old hose coupling unless used or capable of being used with the particular fitting shown in said Gullborg patent No. 1,307,733, which fitting defendant has never made or sold; that said court held said patent No. 1,307,734 to lawfully cover only a specific improvement upon the means shown and described in the re-issue patent to Winkley, No. 14,667; that it further held as outside of the scope of said patent No. 1,307,734 a stationary packing crowded against a support by an advancing screw head; that it further held that a fitting and a spring abutment as otherwise furnished by the pin is merely a common bayonet joint member which is not within the scope of said patent No. 1,307,734; that structures with pressure-produced adhesion are not within the terms of said patent No. 1,307,734 unless they also embody a suction effect; and that other courts have so held in other litigation in various jurisdictins.

XVII. Defendants further say upon information and belief that the claims relied on of said Letters Patent No. 1,307,734 in plaintiff's motion for preliminary injunction herein, are deceptive, ambiguous and uncertain of understanding if based on the alleged disclosure of the specification and drawings, and that when such ambiguity and uncertainty shall be truly, correctly and lawfully resolved by reference to the specification and drawings of said Let-

ters Patent, the antecedent negotiations in the Patent Office, and the art existing at and prior to the alleged in-
[fol. 22] vention of the subject matter of said claims in said Letters Patent, the claims of said Letters Patent can be given only such interpretation, meaning and scope that no act ever done or intended to be done by these defendants can be justly and lawfully held to involve infringement of them or either of them.

Wherefore these defendants respectfully pray that said bill of complaint be dismissed at plaintiff's cost.

Rex Duplex Fitting Company, by G. S. Rogers, Sole Owner. R. W. Dusenberry; Clarke & Doolittle, Solicitors for Defendants; Thos. N. Griggs, J. R. Van Kirk, of Counsel.

[fol. 23] IN UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In Equity

No. 2677

ALEMITE CORPORATION, Plaintiff,

against

G. S. ROGERS, Doing Business as REX DUPLEX FITTING COMPANY, and R. W. Dusenberry and R. H. Kidd, Defendants

Statement of Evidence

APPEARANCES:

Messrs. Williams, Bradbury, McCaleb & Hinkle (Chicago, Ill.), By A. C. Ahlberg, Esq.

Messrs. Smith, Buchanan, Scott & Gordon (Pittsburgh, Pa.), By David E. Bollinger, Esq., for the plaintiff.

Messrs. Clarke & Doolittle, by Charles M. Clarke, Esq. and W. G. Doolittle, Esq. James Roy Van Kirk, Esq., for the defendants.

And now, to wit, Thursday, November 2, 1933, at 10:00 o'clock A. M., the above entitled case came on for hearing before Hon. F. P. Schoonmaker, Judge, at Pittsburgh, Pennsylvania.

Opening statement by Mr. Ahlberg, outlining the issue and plaintiff's position, Reply by Mr. Clarke, outlining defendants' position.

[fol. 24] Plaintiff's Proofs

Mr. Ahlberg offered certified copies of certificates of incorporation of The Bassick Manufacturing Company as Plaintiff's Exhibit 1, change of name to Alemite Manufacturing Company as Plaintiff's Exhibit 2, and change of name to Alemite Corporation as Plaintiff's Exhibit 3, and title was admitted in so far as the same is vested in Alemite Corporation.

Testimony of Don Alexander

Don Alexander, a witness for plaintiff testified as follows:

I am a resident of Evanston, Illinois and am assistant general manager of Alemite Corporation.

I identify Plaintiff's Exhibit 4 as Alemite pin type fittings manufactured by Alemite Corporation and state that the purpose thereof is to lubricate bearings of automobiles and other machinery; that they are applied to the bearings, screw into the bearings, and then various compressors are attached to the fittings, clamped over the fittings by means of these pins, and then lubricant is forced in by the compressors to the bearings, flushing out the old lubricant and forcing new lubricant in. And there may be a number of these fittings on the one machine, for the different bearings—wherever there is a bearing that can be lubricated with such fittings.

I identify Plaintiff's Exhibit 5 as an Alemite Compressor, hose and coupler which is used to develop high pressures by screwing down on the handle to conduct the lubricant from the compressor through the hose and coupler, and [fol. 25] through the fittings to the bearing.

I recognize Plaintiff's Exhibit 6 as an Alemite service compressor having a hose and coupler identical with that of Plaintiff's Exhibit 5. This compressor is sold to garages, service stations, fleet owners and other places where they lubricate a large number of bearings, providing larger capacity and perhaps higher pressures than are obtainable with a smaller outfit.

The fittings of Plaintiff's Exhibit 4 bear the patent marking "Alemite, made in U. S. A. Patented 6/24/1919," and the compressor and coupler outfits are also marked, those of Plaintiff's Exhibit 5 bearing the legend: "Alemite Lubricator, Manufactured by Alemite Corporation, Chicago. Patented 6/10/19, 6/24/19, 2/26/24, Patents Pending," and Plaintiff's Exhibit 6 bears the legend "Alemite Gat-Gun. Registered in United States Patent Office, Patent Nos. 1,307,-734, 1,365,986, 1,366,381, 1,377,023, 1,619,126, Reissue 1,314,-667, 1,475,980, Re 16,787, 1,637,612, 1,603,916, 1,692,423, Patents Pending."

Our company sells Alemite pin fittings directly to the car manufacturers. They are installed on automobiles by the car manufacturers. We also sell these to our distributors, who in turn sell them to dealers and garage owners, service station owners, who use them in replacing broken and worn fittings on automobiles at the time automobiles come in for lubrication.

Our company has been manufacturing and selling compressor and coupler outfits like Exhibits 5 and 6 since 1919, sold under the trademark "Alemite."

[fol. 26] Prior to the advent of the Alemite system, there were two different types of lubricating means. One of these was grease cups, and the other oil cups. These grease cups had a threaded member which was screwed into bearings, the cup portion was then filled with grease and turned down, the idea being to force the grease into the bearings. Plaintiff's Exhibit 8 shows such a grease cup.

The oil cups of Plaintiff's Exhibit 9 were in use prior to the time that the Alemite system came into vogue. These cups were screwed into the bearings of automobiles, and then the cup portion was filled with oil, the idea being that the oil would flow down into the bearings. Light oil was used. This was unsatisfactory, because the oil ran out of the bearings and left the bearings with no lubrication.

Ordinary oil was supplied to these oil cups by the old-fashioned oil-can like Plaintiff's Exhibit 10.

Some bearings on an automobile require angle fittings like part of those in Exhibit 4 because they cannot be reached by a straight connection.

Well, formerly there were more angle fittings sold to car manufacturers than straight fittings, but on account

of the angle fittings costing more than straight fittings, and the car manufacturers wanting to decrease the cost of their product, they redesigned their bearings to accommodate the straight fittings, and now almost all the fittings we sell are straight fittings.

Despite the fact that Alemite fittings cost more than the old-fashioned grease cups and oil cups, the Alemite equipment was adopted by car manufacturers. At the time this [fol. 27] suit was commenced, in October 1932, the Chevrolet Motor Car Company was the largest user in 1932. Cadillac Motor Car Company; the Hudson Motor Car Company and many others used Alemite as standard equipment.

Plaintiff's Exhibit 11 correctly represents the construction of an Alemite pin fitting, being an enlarged model of an Alemite fitting, cut away to show the internal construction. This fitting consists of an outer shell, pin—steel pin driven through it, a spring which rests on the pin, and there is an inward flange at the top; there is a ball which is pressed against this flange by the spring. This forms a ball check at the top of the fitting.

Plaintiff's Exhibit 12 correctly represents an Alemite coupler, being an enlarged model of an Alemite coupling, cut away to show the internal construction. It consists of an outer shell, two cup leathers, a spring which is placed between the two cup leathers, and the forward cup leather resting against a shoulder in the shell, and is for use in conjunction with the pin fitting. All Alemite couplers are of this construction so they can be used on any Alemite pin type fitting.

The figures showing sales of Alemite equipment are:

Sales of Alemite Pin Fittings

1919	5,737,055
1920	16,750,611
1921	14,780,470
1922	31,444,216
1923	43,520,864

[fol. 28]

1924	33,000,000
1925	51,873,288
1926	50,636,983

1927	56,849,108
1928	73,037,766
1929	77,864,210
1930	40,495,712
1931	31,898,104
1932	16,776,397
	544,664,784

Sales of Compressors with Alemite Couplers

1919	170,000
1920	498,000
1921	438,000
1922	978,000
1923	1,460,000
1924	1,036,000
1925	1,500,218
1926	1,915,855
1927	2,137,539
1928	2,095,368
1929	2,462,491
1930	1,290,257
1931	902,855
1932	487,360
	17,471,943

Sales in Dollars

1919	$707,355.00
1920	2,263,050.00
1921	1,815,702.00

[fol. 29]

1922	3,475,572.00
1923	4,141,790.00
1924	3,366,376.82
1925	3,953,371.12
1926	4,139,440.13
1927	4,831,583.84
1928	4,836,244.00
1929	4,831,103.40
1930	2,878,797.05
1931	1,970,001.58
1932	1,421,772.08

There are dozens of different types of pin fittings sold for use on different types of bearigs, bearings having different sizes of threads. There are a number of different conditions which require different types of fittings, but all the connecting ends which connect the fittings with Alemite couplers are exactly alike; they vary as to the threaded end which is adapted to be screwed into bearings.

The book, Plaintiff's Exhibit 13, is an Alemite price list showing the different products made by the Alemite Corporation, and the prices of each piece of equipment, and is published and distributed by my company. It illustrates pin fittings like Plaintiff's Exhibit 4, compressor and coupler outfits like Plaintiff's Exhibits 5 and 6, and larger and other forms of compressor outfits.

Alemite Corporation has a distributing organization, distributors are located in every state, and we sell our products to these distributors. They have salesmen covering certain territories, which they are allotted, and these [fol. 30] salesmen contact the garages and service stations, who in turn use the equipment for lubrication on automobiles and other machinery.

Originally our equipment was sold in sets, that is; there would be a certain number of fittings sold with each compressor. However, this method of selling was not satisfactory; so that today each unit is sold separately—the fittings are sold separately, and the guns are sold separately.

The Alemite distributor in Pittsburgh is The Alemite Company of Pittsburgh. Each distributor has a franchise to sell in a certain territory, and one of the provisions of this franchise is that he can sell no other product, unless the Alemite Corporation gives its approval. This approval is very seldom given, so that the distributors are dependent upon the products of the Alemite Corporation for their livelihood.

Q. Have pin fittings other than Alemite pin fittings made by your company ever been used as standard equipment on automobiles?

A. No, sir.

Q. That is, no other manufacturer has furnished pin fittings to automobile manufacturers. Is that correct?

A. That is correct, yes, sir.

Q. Mr. Alexander, I hand you a group of papers, and ask you to state, if you can, what they are?

A. This is a letterhead with the name "Rex Duplex Fitting Company, Fulton Building, Pittsburgh, Pennsylvania," at the top; below is given a list of high pressure hand guns, with the price, and also a list of Rex Duplex fittings, with the price.

[fol. 31] Q. Now, will you look hurriedly over the entire group of papers, Mr. Alexander? What I want to know is whether they are all letters or circulars of the Rex Duplex Fitting Company?

A. Yes, sir, they are all letters or circulars of the Rex Duplex Fitting Sales Company.

Q. Well, some of them are on letterheads of Rex Duplex Fitting Company, and some on the Letterhead of Rex Duplex Fitting Sales Company, are they not?

A. Yes, sir, that is right.

Q. Now, have you seen these papers before?

A. Yes, sir.

Q. Where and under what circumstances?

A. These were sent in to me by various distributors of ours, who collected them in their territories.

Q. And when was that?

A. About a year and a half ago.

Q. It was prior to the commencement of this suit, was it not?

A. Yes, sir.

Mr. Ahlberg:

I offer the letters and circulars in evidence collectively, as Plaintiff's Exhibit No. 14, and ask that they be marked ad seriatim, a, b, c, d, e, f, g, h and i.

Mr. Clarke:

If your Honor please, I object to the offer of these nine pieces of paper until they are properly identified and verified. They are self-serving documents, and nothing to [fol. 32] show—— As far as this witness is concerned, he has received them; that is all he has said—there is nothing to connect them with the original source.

Mr. Ahlberg:

I may be taking a short-cut. There are other witnesses here who can identify them, and I think there is no ques-

tion but that they emanated from the defendants' place of business.

Mr. Clarke:

Maybe there isn't, but they don't prove that on their face. I think you might offer them for identification, but not finally.

The Court:

Well, until there is some proof that the Rex Duplex Fitting Company used these papers in their business, I don't suppose they are actually admissible in evidence.

Mr. Ahlberg:

All right. I ask that they be marked for identification.

(Papers referred to marked for identification Plaintiff's Exhibits Nos. 14-a to 14-i, inclusive.)

Q. Mr. Alexander, I observe on one of these letters on the letterhead of Rex Duplex Fitting Company, it bears the date of April 23, 1932, and the name of C. H. Emery. That letter is marked for identification as Plaintiff's Exhibit 14-i. Do you know a Mr. Emery?

A. I know a Mr. Emery, yes, sir.

Q. Who was he?

A. He was a man against whom we had a suit—or rather, the Government had a case, in Detroit.

[fol. 33] Q. Well, is he the Carl H. Emery who was indicted by the United States District Court at Detroit for manufacture and sale of so-called spurious Alemite fittings, with the Alemite trade-mark and patent date applied to them?

A. That is the Mr. C. H. Emery I am speaking of, as the man that I know.

Mr. Ahlberg:

I offer in evidence, as Plaintiff's Exhibit No. 15, a certified copy of the indictment of Carl H. Emery, and a certified copy of the sentence of Judge O'Brien in that case.

Mr. Clarke:

I cannot see the point of any such offer, if your Honor please, in this case. Whatever Mr. Emery may have been

guilty of in some other transaction does not seem to me to have any bearing whatever here. I object to the offer of this exhibit.

The Court:

I cannot see the connection between that indictment and the charges in the bill of complaint in this case. Can you point that out to me?

Mr. Ahlberg:

I think it will be apparent a little later. I can explain what my position is now, your Honor.

The Court:

Well, in view of the objection, I suppose we had better pass on it now.

[fol. 34] Mr. Ahlberg:

Well, the point is this: There have been a great many of these Alemite cases,—not only cases involving the issues of infringements, as does this one, but a good many people have manufactured and sold so-called "gyp", or spurious, or bootleg fittings, which have been identical to the plaintiff's product, even going so far as to apply the Alemite trademark and patent date to these spurious devices. The purpose of this offer is to show that the defendants Rogers and Dusenberry employed Mr. Emery to sell the defendant's equipment. I think that the inference that the Court must draw is that the defendants wanted Mr. Emery to sell these defendants' equipment to the customers that he was accustomed to sell these spurious fittings. Now, I think that is important on the question of contributory infringement, because these spurious fittings are sold for use in conjunction with Alemite compressor and coupler outfits and for use in conjunction with compressor and coupler outfits such as the defendant makes.

The Court:

Well, what Emery did as an employee of the defendant company in the matter of selling, or offering for sale, alleged infringing devices, fittings, is of course evidence; but I do not just see the connection between such evidence

and the fact that this man was indicted and entered a plea of guilty in the United States Court in Michigan, and I cannot just see the evidential value, so far as this case is concerned, of that evidence.

[fol. 35] Mr. Ahlberg:

Well, I had hoped to show by another witness that Mr. Emery sold these Rogers or Rex fittings to the same trade as he sold these—

The Court:

Well, whatever evidence you have as to what Emery did with reference to the sale of infringing fittings is, of course, evidence; but what evidential value has the indictment and sentence of the District Court of Michigan on the issues of this case? They are not conclusive, as I look at it, except for the fact that the man committed an offence and was sentenced for it. They might be offered if Emery were offered as a credible witness, for the purpose of affecting his credibility; but to prove the main issues in this case, I do not see that they have any evidential value at all. They are objected to, and we sustain the objection.

Cross-examination.

Alemite does not own any service stations but sell to distributors operating under a franchise from us; they in turn sell independent service stations or service stations owned by oil companies. These service stations buy complete equipments including the fittings and the pumps.

Fittings are sold independently and are usable because service stations ordinarily buy fittings to replace broken fittings on automobiles which come in for lubrication, and they sell them to the car owners for that purpose.

[fol. 36] It is necessary however to furnish the service stations with a pump (compressor) as well as the fitting, and this was the original practice. Alemite products were sold to replace grease cups and oil cups like Plaintiff's Exhibits 8 and 9; there was a set of fittings; one for each bearing on a car, and a compressor was sold with the fittings. This was before the time all the cars on the streets were Alemite equipped, as they are today.

In addition to the grease and oil cups, bearings had been lubricated prior to Alemite equipment by taking the bearings apart and applying lubricant with a paddle.

Referring to the patent markings on Alemite equipment, I understand the number 1,307,734 on the compressor, Plaintiff's Exhibit 6, to mean that the compressor is used in combination with our coupling and our fitting to lubricate a bearing.

Testimony of Robert H. Kidd

Robert H. Kidd, a witness for plaintiff, testified as follows:

I am a millwright and live at 1817 Duffield street, Pittsburgh. I was one of the defendants in this case and consented to the entry of a decree for a permanent injunction. I also executed an affidavit on September 19, 1932, for use upon plaintiff's motion for a preliminary injunction in this case.

I was a salesman for the co-defendants G. S. Rogers and R. W. Dusenberry from the middle of January, 1932, to shortly after August 1, 1932, and called on garages, service stations and different manufacturers of machinery where they use grease equipment.

[fol. 37] I sold Rex compressor and coupler outfits like Plaintiff's Exhibit 16, some of which I bought and paid for outright, and some I received commission on the sales.

I did business with Mr. G. S. Rogers and Mr. Dusenberry and the equipment was delivered to me at the office in the Fulton Building, Pittsburgh. When I paid for this equipment, I paid Mr. Dusenberry, never Mr. Rogers. Other times they would send the checks; and again, I would take guns and fittings from my pay.

The fittings of Plaintiff's Exhibit 17 are the type of fittings I sold for Rex Duplex Fitting Sales Company, meaning Mr. Dusenberry, and Mr. Rogers, under the name of Rex Duplex Fitting Company, as near as I can understand. They were all located in a large office in the Fulton Building.

I sold equipment like Exhibit 17 to others.

Q. Did you receive a commission on any sales that you made?

A. I did.

Q. You had some arrangement whereby you were to be paid a commission on sales?

A. Yes, sir.

I did not sell lubricating equipment other than compressor and coupler outfits of Exhibit 16 and fittings of Exhibit 17.

Q. Now, what, if any, instructions did you receive from your employers with reference to the sale and use of equipment like Plaintiff's Exhibit 16?

A. I was instructed by Mr. Rogers—G. S. Rogers—and [fol. 38] Mr. Dusenberry to sell to garages, service stations and manufacturers of different kinds of machinery where they use lubricating equipment for use on—they could be used with any standard make compressior and hose and coupler, or the Rex compressor, hose and coupler.

Q. Now, this Plaintiff's Exhibit 16 is the Rex compressor and coupler outfit?

A. Yes, sir.

Q. Now, how was that to be used, according to your instructions?

A. To be used on——

Q. Wait a minute. I call your attention to a group of fittings of Plaintiff's Exhibit No. 4, a group of Alemite fittings. Were your instructions to sell this Rex compressor and coupler outfit of Plaintiff's Exhibit 16 in conjunction with fittings like Plaintiff's Exhibit No. 4, Alemite fittings?

A. I could sell the compressor outfit separate, or I could sell the fittings separate, either way, it didn't matter which way.

Q. Well, did you have any instructions with reference to the use of the Rex compressor and coupler outfits for use with Alemite fittings?

A. I was told that it could be used with the Alemite equipment or the Rex equipment, either one.

Q. Well now, with reference to the Rex fittings of Plaintiff's Exhibit 17, did you have any instructions with reference to the use of those fittings in conjunction with Alemite compressor and coupler outfits like Plaintiff's Exhibit 5?

A. Yes; I was instructed that they could be used for the [fol. 39] Alemite compressor outfit or the Rex, either one.

Q. Now, from whom did you get your instructions with reference to the sale of the Rex equipment?

A. Mr. Dusenberry and Mr. Rogers.

I sold fittings alone to Kaufmann's Department Store in Pittsburgh which has a fleet of trucks equipped with Alemite fittings, and said Rex fittings were put on the trucks and used in the same way as Alemite fittings.

Q. Do you know what kind of lubricant compressors and couplers Kaufmann's used for putting grease in the bearings?

A. Well, it wasn't Rex; I didn't sell them the Rex equipment. It was the Alemite or some other standard make.

I also sold a small order of fittings only, to Wade Service Station at Sixth and Forbes, where they service automobiles with this high-pressure Alemite lubricating system, including large and small guns, all of which terminte in a coupler like Plaintiff's Exhibit 5.

Q. Did you sell any Rex compressor and coupler outfit to the Wade Service?

A. I sold a few.

Q. I mean to Wade's?

A. No, I did not.

Q. Now, you sold some fittings to Equitable Auto Company, did you not?

A. Equitable Auto, Snyder Doughnut Company, and the City of Pittsburgh.

[fol. 40] Q. What did you sell to Equitable Auto, for example?

A. I sold fittings, different types. I am not sure how many different kinds I sold to them, but I sold some to them.

Q. You sold fittings alone, did you?

A. Yes.

Q. What, if any, compressor equipment did you sell?

A. To——

Q. To Equitable Auto?

A. No, I didn't sell any.

Q. You didn't sell any compressors to Equitable Auto. Do you know what Equitable Auto Company did with the fittings you sold to them?

A. Why, they bought them for their automobiles or trucks, or whatever they use. The man that bought them from me told me that is what he wanted them for.

Q. Were you restricted in any way in your authority to sell Rex compressor and coupler outfits?

A. No, sir.

Q. That is, you sold them to service stations, garages, dealers?

A. Service stations, garages.

Q. Fleet owners?

A. Fleet owners; any place I could make a sale.

Q. Sometimes you sold fittings alone?

A. Yes, sir.

Q. And sometimes you sold compressors and couplers alone?

A. Yes, sir.

Q. That is, when you sold fittings alone, you understood, [fol. 41] did you not, that the fittings were to be used in conjunction with Alemite compressor and coupler outfits, like Plaintiff's Exhibit 5?

A. Yes, sir.

Q. And when you sold the Rex compressor and coupler outfit, like Plaintiff's Exhibit 16, you understood that they were to be used in conjunction with Alemite fittings, like Plaintiff's Exhibit 4 fittings?

A. I did.

Mr. Van Kirk:

Object to, as repetition. He has testified to that two or three times.

The Court:

Yes; it has been discussed quite a bit.

I made daily reports to Rogers and Dusenberry of my efforts to sell Rex equipment and they sent follow-up letters to the parties called on and the ones I made sales to.

Q. Will you look at this exhibit, Plaintiff's Exhibit 14, marked for identification, letters marked "a" to "i" inclusive, and tell us, if you can, what they are?

A. This is a price list——

Q. Mr. Kidd, look at them generally and tell us what they are, will you?

A. It is a form of letter that they sent out to the different firms, the jobbers and the trade.

Q. By "they" whom do you mean?

A. To garages and service stations.

Q. Now, have you seen letters and papers like that before?

A. Yes.

[fol. 42] Q. Where did you see them?

A. In Mr. Dusenberry's office in the Fulton Building.

Q. In the Fulton Building?

A. In the Fulton Building, yes, sir.

Q. And were letters and circulars of that type sent out by mail?

A. Yes, sir.

Q. These letters and circulars refer to Rex equipment which has been identified here as Plaintiff's Exhibits 16 and 17, do they not?

A. Yes, sir.

Q. Did you see quantities of those letters and circulars in that office in the Fulton Building?

A. I did.

Mr. Ahlberg:

I offer the letters previously marked for identification in evidence as Plaintiff's Exhibit No. 14, being numbered 14-a to 14-i, inclusive.

Mr. Clarke:

I still object, if your Honor please, to these exhibits, as not having been proved by this witness. As far as he has gone is to say that he has seen other letters similar to these, he has not said he had anything to do with the sending of these letters, or anything that he ever saw.

The Court:

Well, he said that they were sent out from that office; I understood him to say that—that similar circulars and price [fol. 43] lists were sent out from that office.

Mr. Clarke:

Similar circulars; but he has not said anything particularly connecting these ones that are offered here.

The Court:

Well, he has said they are similar circulars to ones he saw sent out from the office. Of course, he has given no evidence as to the place where these particular papers were taken from, who had them. But I think they are admissible in evidence in connection with his testimony that they are

simliar to circulars that were sent out from the office of the Rex Duplex Fitting Company. We will admit them for that purpose.

(Here the witness identified the signature "R. W. Dusenberry" on Plaintiff's Exhibit 14-h as being that of Mr. Dusenberry.)

Q. Will you look at this paper and state, if you can, what it is (handing paper to witness)?

A. This is a letter that was given to me by either Mr. Rogers or Mr. Dusenberry, I am not certain which one it was; and this is what led up to the sale that I made to the Equitable Auto Company.

Q. That is a short letter; will you read it, Mr. Kidd?

A. "Oakmont, Pa., April 4, 1932. Universal Lubricating Systems, Inc., Fulton Building, Pittsburgh, Pa. Attention Miss Born. Gentlemen: Kindly have a representative call at the Duquesne Light Company Wednesday. Have him ask for Mr. Hollinger. Yours very truly, Universal Lubricat-[fol. 44] ing Systems, Inc., (signed) E."

Q. Now, you received this letter either from Miss Born—B-o-r-n, or Mr. Rogers, in the office of——

A. Mr. Dusenberry.

Q. In the Fulton Building?

A. In the Fulton Building.

Q. And you were instructed to call on the Duquesne Light Company?

A. Yes.

Q. Is that the same as the Equitable Auto Company?

A. I think it is a subsidiary of the Dusquene Light Company. I think that is——

Q. Anyway, they all have their purchasing departments in the same office?

A. Yes; the same one buys for three or four companies.

Q. And it was the result of this letter of April 4, 1932, that you called on the Duquesne Light Company, or its subsidiary, the Equitable Auto. Is that right?

A. Yes, sir.

Q. Will you look at this paper and tell us, if you can, what it is, Mr. Kidd (handing same to witness)?

A. That is an agreement that Mr. Dusenberry made with me in regard to oil company sales and other sales that I made.

Q. That is a short letter; will you read the whole of it?

A. "Rex Duplex Fitting Company, Fulton Building, Pittsburgh. January 27, 1932. Mr. Robert H. Kidd, 1817 Duffield Street, Pittsburgh, Pa. Dear Sir: We agree to [fol. 45] give you, as one of our salesmen, ten per cent on all oil companies' orders for our goods that you sell, and the same on all repeat orders of said companies. Other sales, as per Rex price list and agreement. Yours truly, Rex Duplex Fitting Sales Company, per R. W. Dusenberry."

Q. Is that a letter that you received on or about the date it bears?

A. Yes, sir.

Q. Will you look at these papers and state, if you can, what they are (handing same to witness)?

A. This is Rex Duplex Fitting price list that they give out to different salesmen. It quotes the different prices of the different articles.

Q. That applies to the first of the two sheets that I have handed you, does it not?

A. That is "Terms: Net Cash on delivery to small unrated accounts. To large well-rated accounts, the salesman may accept orders for direct shipment on open account"——

Q. Just a minute. You said that was the price list, did you not?

A. Yes.

Q. That is, the first sheet is the price list. Is that right?

A. Yes.

Q. What is the second sheet?

A. "Types of Prospects to Contact. Group No. 1: Large fleet owners"——

Q. Just a minute; I didn't ask you to read it. What is the second sheet?

A. Ones to contact.

[fol. 46] Q. It is some of the sales literature, is it?

A. Yes. This was given out to salesmen.

Q. And have you seen those papers before?

A. Yes.

Q. Where?

A. In the office in the Fulton Building.

Q. In the office of——

A. Mr. Dusenberry.

Q. Will you look at this paper and tell us, if you can, what it is (handing paper to witness)?

A. This is a copy of a letter that Mr. Dusenberry sent to Mr. C. Hahn, in the City Court House.

Q. What is the date of that letter?

A. July 22, 1932.

Q. Had you called on Mr. Hahn in an effort to sell him lubricating equipment?

A. I have; for fittings to be used on airplanes out at either the Municipal Airport or Bettis Field, I am not sure which it was.

Q. And Mr. Dusenberry gave you a copy of that letter on or about that date?

A. Yes, sir.

Q. July 22, 1932?

A. He did. Shall I read it?

Q. No. It was given to you as being a copy of a letter that Mr. Dusenberry had written to Mr. Hahn, following up your interview with him. Is that right?

A. Yes, sir.

Mr. Ahlberg:

I offer the letter in evidence, and ask that it be marked [fol. 47] Plaintiff's Exhibit 19.

Mr. Clarke:

I object to this offer of Exhibit 19. It is a mere copy, and alleged to be a copy of an original letter; secondary evidence.

The Court:

That is true; but by the testimony of this witness this is a letter that was given to him by Mr. Dusenberry, and as such I think it has some evidential value as a reference to the business that they were carrying on. We overrule your objection.

Mr. Clarke:

I didn't quite understand that it was as your Honor stated. I understood it was a copy given to this witness.

The Court:

This witness testified that this paper was given to him by Mr. Dusenberry as a copy of a letter which Dusenberry had written to the prospect upon whom this witness called.

Cross-examination:

By Mr. Van Kirk:

When I started with the Rex Duplex Fitting Sales Company about the middle of January, 1932, I talked with Mr. Rogers or Mr. Dusenberry, I am not certain which one I talked with first. Mr. Dusenberry set the prices of the fittings and compressor outfits which were changed at different [fol. 48] times and I had a good bit of leeway on my sales.

Q. Well, now, isn't it a fact, Mr. Kidd, that you bought this equipment outright and took it out to your home and sold it from your home?

A. Some equipment I paid for at the time; other equipment I sold and the company delivered the goods, and the checks come in to the company, and they paid me a commission.

Q. You say the company delivered it?

A. They sent some of it; I don't know whether they sent it through the mail or if they delivered it.

Q. What company?

A. The City of Pittsburgh, they delivered—I know of one order they delivered to the City of Pittsburgh.

Q. Who did?

A. The Rex Duplex Fitting Company—Sales Company; because I got the check for it.

Q. Isn't it a fact that they made a certain price to you for this equipment, and that you in turn went out and sold it for whatever price you could get, and that was the amount you got as your commission that you talk about, over and above the purchase or cost price to you?

A. I just followed instructions; they told me to go out and sell it, and they had a price list there, but they left it pretty much up to me what I sold it for.

Q. The price list was what you paid for it, wasn't it?

A. Well, the price list—the price that I was supposed to sell it for, that is, the big companies; and the smaller com- [fol. 49] panies, I was supposed to charge them other prices.

Q. Now, you talk about salesmen. Who were the salesmen of this company?

A. Well, at one time they had about twenty-five extra salesmen, other salesmen besides myself.

Q. Well, name some of them.

A. Well, as far as the names are concerned, I can't name them, I don't know them. They had twenty-five men there—

about twenty-five or thirty men there one day, and he give them all slips like I just showed you here, and he started them out with fittings, grease guns.

Q. You recall—you say they started a sales campaign. Was that it?

A. Yes, sir.

Q. Do you recall meeting one Tuesday night at the office of the Rex Duplex Fitting Company, or Sales Company, with a bunch of salesmen?

A. Yes, I do; I remember one. I am not certain about if it was a Tuesday night or what night it was.

Q. Well, do you remember my being present?

A. I was at a couple of meetings that you were present; I don't know which one you refer to.

Q. Do you remember my saying to you people at that time to sell the fitting and coupler in combination?

A. I don't know what your instructions were.

Q. Well, you were there, you say.

A. I was at one or two meetings that you were present, but I don't know——

Q. But you don't know what I said?

A. *I don't recall your saying that now.*

[fol. 50] Q. Well, I might have said it, might I not?

A. I don't question that you said it; you may have said it.

Q. But if I did, you didn't hear it?

A. No, I didn't.

Q. You tried to sell—or did you offer to sell the fitting and coupler in combination to any concern or concerns?

A. I sold them both separate and together, as I was instructed.

Q. Who instructed you?

A. Mr. Dusenberry and Mr. Rogers.

Q. You remember that very specifically, but you don't remember what I said one night at those meetings that you were present. Is that right?

A. I met Mr. Rogers and Mr. Dusenberry practically every day, while I have seen you once or—a few times.

Q. But you know, when I was down there, what I was there for?

A. Yes; I heard you—something.

Q. Did you ever solicit Boggs & Buhl to sell them equipment?

A. Yes, I did.

Q. Do you recall selling a hundred fittings one night to some man who said—to some man at your own home?

A. Yes, sir.

Q. What did that man say to you?

A. He was from Boggs & Buhl——

Q. He represented he was from Boggs & Buhl. Is that right?

A. Yes, sir.

[fol. 51] Q. Who was he, in fact?

A. Mr. Ulrich.

Q. Mr. Ulrich, an agent of the Alemite Company. Is that right?

A. I believe that is the name, yes, Ulrich.

The Court:

You are going somewhat out of the scope of the examination of this witness in chief in this type of questions, you are now asking this witness.

Mr. Van Kirk:

It may be a little beyond the scope, your Honor.

Mr. Clarke:

Q. Mr. Kidd, did you represent——

The Court:

Are you representing different interests, Mr. Clarke?

Mr. Clarke:

No; we are together.

The Court:

Unless it is consented to by the other side, cross-examination ought to be by one counsel.

Mr. Ahlberg:

I do object. I have heard that objection made and sustained a good many times. I think a witness ought to be confronted by only one lawyer, your Honor.

[fol. 52] Mr. Clarke:

I have just one or two other points.

By Mr. Van Kirk:

I offered the Rex coupler for use with an Alemite fitting, and also a Rex fitting for use with an Alemite coupler. I was one of the original defendants in this case and procured an attorney. Then I decided not to make a fight, because I didn't think I had committed any crime.

After I had an attorney's appearance entered, I later executed an affidavit for the Alemite Company. Mr. Ahlberg, counsel for the plaintiff, came to my house one night and I told him a true version of what I had done.

Testimony of Marvin Walkow

Marvin Walkow, a witness for plaintiff testified as follows:

I live at 228 Collins Avenue and work at Wade's, Inc., the concern which owns the service station at Sixth and Forbes Street, Pittsburgh.

I purchased fifty ⅛ straight fittings from Mr. Kidd, listed one-third off cash, ten days, and received the receipt, Plaintiff's Exhibit 21, from Mr. Kidd, dated May 16, 1932. These fittings were Rex fittings like that of Plaintiff's Exhibit 20, and were delivered to me by Mr. Kidd, who had them with him.

We lubricate automobiles and have all Alemite equipment, handle all Alemite fittings like Plaintiff's Exhibit [fol. 53] 4, and had never bought any other fittings but Alemite until the time Mr. Kidd came there. We do not have Alemite Compressors like Exhibits 5 and 6, but larger forms from the display board and have one big electric compressor. The board and guns referred to are illustrated on page 51 of Plaintiff's Exhibit 13. All our Alemite equipment has couplers like Plaintiff's Exhibit 5. We do not have any Rex compressor and coupler outfits like Plaintiff's Exhibit 16.

We placed the Rex fittings in stock and replaced damaged or missing fittings on automobiles with them, using them in the same place as we would an Alemite fitting. Lubricant was introduced into the bearings having Rex fittings with an Alemite gun.

Q. That is, you connected with the Alemite——

A. Coupler.

Q. —compressor and coupler outfit to the——

A. Fitting.

Q. —to the Rex fitting, and operated the compressor to force grease into the bearing?

A. Yes, sir.

Cross-examination.

Mr. Clarke:

Q. When did you use these fittings in that way?

A. Whenever it was necessary to use them. We may have had a fitting necessary, and we naturally had to replace it in order to lubricate that particular part of the automobile.

Q. Did you do that immediately after this purchase of fifty fittings in May, 1932?

[fol. 54] A. Well, we lubricate anywhere from five, ten to fifteen cars a day. When any particular car came in that had a fitting missing, why, we put one on.

Q. But you can't tell when you did that first with any one of these fifty fittings?

A. Well, no, I couldn't tell you that offhand. Naturally, we bought them for resale, and used them for that purpose.

Q. Had you any of the Alemite fittings in stock at that time?

A. None of that particular type, no.

Q. Is that the reason you bought these Rex fittings?

A. Yes, sir.

Q. You bought these from Mr. Kidd, didn't you?

A. Yes, sir.

Q. What did Mr. Kidd say to you as to the proposed efficiency of these fittings—anything?

A. Well, he said they were as good as Alemite.

Q. As good as Alemite?

A. As good as Alemite. In the past we had used some fittings that looked like Alemite, and they didn't prove very efficient, so we didn't like to buy anything but Alemite.

Q. Did you regard it as a legitimate transaction to purchase those fifty fittings from Mr. Kidd, in view of your previous relations with the Alemite Company?

A. Yes, I thought it was all right.
Q. It looked all right to you, did it?
A. Pardon.
Q. It looked all right to you?
A. Yes.

[fol. 55] Testimony of Edwin J. Balluff

EDWIN J. BALLUFF, a witness for the plaintiff, testified as follows:

I am a resident of Detroit, Michigan, and am the E. J. Balluff who signed an affidavit dated September 17, 1932 in support of plaintiff's motion for preliminary injunction.

On September 17, 1932, I went to the store of the Chicago Automotive Surplus Company at 2312 Cottage Grove Avenue, Chicago, Illinois, and asked Mr. C. Larson who represented himself as the proprietor, to purchase some grease fittings for use in conjunction with a lubricant compressor and coupler outfit which I had in my hand. He sold me fifteen fittings at five cents apiece. I paid for them and received a sales slip for the same, and took the fittings with me. I identify these fittings as Plaintiff's Exhibit 22.

I also identify the compressor and coupler outfit, Plaintiff's Exhibit 23, as the one I had with me and showed to Mr. Larson at the time of my purchase of grease fittings. I inserted one of the fittings into the coupler in Mr. Larson's presence. I also identify the sales slip given me by Mr. Larson when I purchased the fittings as Plaintiff's Exhibit 24.

Cross-examination.

Mr. Clarke:

Q. Mr. Balluff, you never made any purchases except this particular one from Mr. Larson, of any of these fittings?
[fol. 56] A. Of this type marked with the name that these fittings are marked. I wish you would make your question more explicit.
Q. The particular fittings that you have identified here.
A. Yes.

Q. That you bought from Mr. Larson—that was the only purchase you ever made of that particular fitting?

A. That is the only one I made, of that fitting, with Mr. Larson, or from the Chicago Automotive Surplus Company.

Q. Did you make any purchases of that same kind of fitting, so marked and identified as you have identified it, from anybody else than Mr. Larson?

A. No.

Q. Do you know where Mr. Larson got these fittings from?

Mr. Ahlberg:

I think I will object to the question. I don't see how Mr. Balluff could possibly know. I don't care whether he answers it or not, but I don't see how he could possibly know where he got them.

Mr. Clarke:

If he can't answer, he can say so.

A. I believe that I asked Mr. Larson where he purchased the fitting, and if I remember correctly, he told me that he purchased it from the Rex people—I believe is what he said.

Q. Did that mean anything to you?

A. Why, it meant to me the Rex people involved in the suit here, is what it meant to me.

[fol. 57] Q. Involved in the suit where?

A. Involved in this suit here.

Q. You knew about this suit at the time you made the purchase, did you?

A. I don't say that I knew about the suit.

Q. Now, as a matter of fact, weren't you asked or inspired to make that purchase for the very purpose of use as evidence in this case?

A. At the time I made the purchase I had no knowledge that the evidence—or the things that I purchased would be used in this case.

Q. Who asked you to make the purchase?

A. I did so at the request of the patent counsel for Alemite Corporation.

Q. You are sure of that, aren't you?

A. Yes.

Q. You had never previous to that time had any interest in purchasing anything of the same kind identified with the Rex Company?

A. No.

Testimony of Nelson Cornell

NELSON CORNELL, a witness for plaintiffs, testified as follows:

I am twenty years of age and live at Chicago, Illinois. I signed an affidavit September 16, 1932 for use upon plaintiff's motion for preliminary injunction.

I went to the Automotive Surplus Company at 2312 Cottage Grove Avenue, Chicago, Illionis, and asked to see the [fol. 58] proprietor, who I understood was Mr. C. Larson, and a person came from the rear of the store and intimated that he was the proprietor. I told him that I wished to purchase some pin fittings for use with genuine Alemite equipment, and asked if he had anything of that kind. He immediately produced a number of them and asked me how many I wanted; I told him fifty. He gave them to me, and gave me a sales slip after I had paid him for the fittings. I identify these fittings as Plaintiff's Exhibit 25 and the sales slip I received as Plaintiff's Exhibit 26.

I told Mr. Larson that I wanted the fittings for use with an Alemite coupler outfit of the type in Plaintiff's Exhibit 5.

Cross-examination.

Mr. Clarke:

Q. Did you actually want to use these fifty fittings in connection with a compressor like Plaintiff's Exhibit 5, Mr. Cornell?

A. No, sir.

Q. Well, now, what really was the reason for making this purchase of fifty fittings?

A. When I bought the fittings I told Mr. Larson that I wanted them, to be able to use them with a genuine Alemite coupler and compressor.

Q. Why did you want to use them with a genuine Alemite coupler?

A. I didn't say I wanted to use them; I say that is what I told Mr. Larson how I wanted to use the fittings.

Q. Oh, you told Mr. Larson——

[fol. 59] A. That I wanted fittings that would fit a genuine Alemite compressor.

Q. Why did you want them?

A. Why did I want the fittings?

Q. Yes.

A. I wanted them for counsel for the Alemite Corporation.

Q. For what?

A. For counsel for the Alemite Corporation.

Q. And it was at his direct request that you made this visit and this purchase, wasn't it?

A. Right.

Q. You hadn't any idea of ever using them with an Alemite pump?

A. No.

Q. And they never have been used, have they, with an Alemite pump?

A. I think they have.

Q. Where have these fifty fittings been ever since then?

A. Why, I think they have been in possession of the Court; I don't know.

Q. You do? You don't know, do you?

A. No, sir.

Q. How do you know they are the actual fifty fittings which you bought from Mr. Larson?

A. One thing, of course he knew what is inside of them; and for another thing, the fact that they are fittings that were tagged as being mentioned in my affidavit, and I thought in possession of the court.

Q. You have never seen them, though, since that day to this, have you?

[fol. 60] A. No, sir.

Q. And yet you identify them as the exactly fifty fittings which you purchased in September '32, from this Mr. Larson out in Chicago?

A. I do.

Q. And yet they are identically like fifty other fittings that have been offered here, aren't they? You can't tell them apart, can you?

A. No, sir.

Q. You made this affidavit on the 16th of September, 1932, in the case now in hearing, in connection with a motion for preliminary injunction, did you not?

A. Yes, sir.

Q. That was done at the request of counsel for the plaintiff, wasn't it?

A. Yes, sir.

Q. And that affidavit was prepared, and you signed and swore to it?

A. Yes, sir.

Q. At the request of such counsel. In that affidavit you say—referring, I suppose, to Mr. Larson: "He informed me that within the last two or three days he had sold a man who drove up in a truck 25,000 Rex fittings, and that he would be glad to fill my order for additional fittings any time." Did Mr. Larson actually make that statement to you?

A. He did.

Q. Did you believe it?

A. He made the statement.

Q. Did you believe it?

A. Why, yes.

[fol. 61] Q. You wouldn't be surprised if that statement was repudiated, would you?

A. I have no knowledge other than the fact that he told me that.

Q. Have you ever heard of any actual sales of these Rex fittings in numbers larger than the fifty which you yourselft bought—anywhere, by anybody, at any time?

A. Yes, sir.

Q. Where?

A. Mr. Larson told me he sold 25,000 a few days previous.

Q. That very thing I just read to you?

A. Right.

Q. Do you know that that sale happened?

A. He told me that it happened; he was the proprietor of the store.

Q. Do you know that that sale happened?

A. No, sir.

Q. How long had you known Mr. Larson?

A. Never saw him before that time I was there.

Q. And yet you believe that statement that he sold the twenty-five thousand?

A. I do.

Testimony of M. K. Ulrich

M. K. ULRICH, a witness for plaintiff, testified as follows:

I reside in Brentwood, Pittsburgh and am the M. K. Ulrich who signed an affidavit dated July 18, 1932 for use upon plaintiff's motion for preliminary injunction in this case.

[fol. 62] On July 11, 1932, I called at the home of Mr. Kidd and said I wanted to purchase a hundred greasing fittings for use with an Alemite compressor and coupler outfit. He said that the fittings he had, the Rex fittings, could be used with an Alemite outfit. I asked him the price, and he said the price was $6 a hundred. He also showed me a cross section of a Rex fitting, explained how it was made, and stated that they also made a 45-degree angle and a 90-degree angle fitting. The ones I purchased were ⅛-inch straight fittings.

I purchase a hundred Rex fittings. He had said the price was $6 a hundred, but he would give them to me for $5. I then asked him what the price would be in lots of five hundred, and he said $4. And he wrapped them up and gave them to me, and he said the price would be $4 for the hundred. I gave him the $4, and he gave me a receipt.

I identify Plaintiff's Exhibit 27 as the fittings I bought from Mr. Kidd, and Plaintiff's Exhibit 28 as the receipt given me by Mr. Kidd for the $4 I paid him.

Prior to my visit on Mr. Kidd, I made a short investigation to determine if Mr. Kidd was agent for Rex fittings. I recognize Plaintiff's Exhibit 29 as a copy of the East Liberty Post No. 5 Gazette, issue of June 9th, containing an advertisement stating that Mr. Kidd was the sole agent for Rex fittings and equipment. I secured this copy from the editor, and being desirous of purchasing some Rex equipment, I called on Mr. Kidd.

[fol. 63] Cross-examination.

Mr. Clarke:

Q. Why did you want this hundred fittings for use with an Alemite equipment, Mr. Ulrich?

A. I was requested to purchase them.

Q. By whom?

A. By my employer.

Q. Who was he?

A. Employed by the Pinkerton Detective Agency.

Q. Who made the request to them, do you know?

A. Mr. Hunt, the superintendent here.

Q. Do you know where the original request came from?

A. The original request came from Chicago, through our Chicago office.

Q. Did you know for what purpose these hundred fittings were to be used?

A. You say, did I?

Q. Yes.

A. No, I did not.

Q. You didn't expect to use them yourself?

A. No, I did not.

Q. You did not so state when you made the purchase?

A. No, I did not.

Q. And did you tell Mr. Kidd when you made the purchase that you were a detective?

A. Certainly not.

Q. Why "certainly not"?

A. In investigating any cases it isn't customary for a person to state that they are a detective?

[fol. 64] Q. So far as Mr. Kidd was concerned, he presumed it was a perfectly fair and legitimate transaction, did he?

A. I don't know; I presume he did.

Q. Did you say anything to him about purchasing these for use on cars of Boggs & Buhl?

A. I don't recall; I may have.

Q. Did "Boggs & Buhl" mean anything to you here in Pittsburgh?

A. Not in particular, because they are a large department store here.

Q. You know where it is?

A. Yes.

Q. And didn't you tell Mr. Kidd that you wanted them to use particularly for lubricating the trucks of Boggs & Buhl, on that occasion?

A. I said I didn't recall whether I did or not.

Q. You don't recall that?

A. No.

Q. Are the original hundred fittings in the bag which you have just identified?

A. I presume so; I didn't count them.
Q. Will you please count them and tell me?
A. I will.

The Court:

It is hardly worth while taking up the time of the court for the witness to count those fittings on the witness stand. If you want him to count them, he may do so when he leaves the witness stand, and you may recall him.

[fol. 65] Mr. Clarke:

That is all for the present then, if your Honor please.

(Witness withdrawn.)

Testimony of Thomas H. Bryson

THOMAS H. BRYSON, a witness for plaintiff, testified as follows:

I am storekeeper for the Equitable Auto Company, the transportation unit of the Philadelphia Company. The Philadelphia Company is a large public service company in this vicinity, and operates the street car company, or bus company, a fleet of cars and trucks for utility service, and also for the Light Company and Railways. The Equitable Auto Company services the equipment of these associated companies that own busses, automobiles and street cars. The Philadelphia Company has 550 to 600 cars and automobiles, passenger cars and trucks. With the exception of the Ford trucks, passengers cars and Fords, they are equipped with Alemite fittings of the kind exemplified in Plaintiff's Exhibit 4. Ford cars are equipped with Zerk fittings; at the present time, a large percentage of the Ford cars are equipped with Zerk fittings. In October, 1932 and prior to that time, about fifty per cent were equipped with Zerk fittings and fifty percent with the Alemite pin fitting type.

Q. Now, what makes of compressors does the Equitable Auto Company use in conjunction with the Alemite pin fittings?

[fol. 66] A. Well, I couldn't tell you the makes offhand, but they are all Alemite compressor. We have six service

stations in our central garage, and we have an Alemite stand out there with the bayonet type.

Q. That is, you have some Alemite guns like this Plaintiff's Exhibit 6?

A. Similar to it.

Q. Do you have any Alemite compressor outfits like Exhibit 5?

A. Yes, sir; and we have the electric guns.

Q. And you have large electric service compressors?

A. Yes.

Q. Now, do all of the Alemite compressor outfits which you have terminate in an Alemite coupler of the type that is attached to both Plaintiff's Exhibits 5 and 6?

A. Yes, sir.

Q. Has your company purchased any Rex fittings of the type identified here as Plaintiff's Exhibit 17?

A. We purchased one hundred of the ⅛ inch elbow type. This looks like it here (indicating fittings included in Exhibit 17).

Q. When was that, Mr. Bryson?

A. May 17, 1932.

Q. Do you have some papers that represent the transaction?

A. Yes, sir.

Q. What do you have? Do you have a purchase order of your company?

A. I have a purchase requisition, which is an authority on our purchasing department, requesting a certain amount of any particular item to be purchased.

[fol. 67] Q. May I see that?

A. All right. (Handing same to counsel.)

Q. Now, as I understand it, this purchase requisition which you have handed me, and which bears the date of May 9, 1932, No. 7004, is the requisition that would be issued by your stores department on the purchasing department. Is that correct?

A. Yes.

Q. And it calls for 300 ⅛ inch Alemite grease cups, elbow type, and 300 ⅛ inch elbow Zerk type grease cups. Is that right?

A. That is right.

Q. Now, you filled out this requisition, did you?

A. Yes, sir.

Q. And what did you do with it?

A. Forwarded it to the purchasing department.

Q. All right.

A. The purchasing department in turn then places out inquiries and bids on this material requested. It ended up by placing this order here—splitting this up for 100 of the Rex ⅛-inch elbow type fittings.

Q. Now the paper you have handed me is what?

A. That is the purchase order.

Q. And it is on the stationery of the Equitable Auto Company, and bears the date May 7, 1932?

A. Yes, sir.

Q. No. Q-36899. It is apparently a copy of an order to Rex Duplex Fitting Sales Company, Fulton Building, Pittsburgh, Pennsylvania, and calls for 100 ⅛-inch Rex grease cups, elbow type. Is that correct?

[fol. 68] A. Yes, sir.

Q. How did you happen to get a copy of this order?

A. I get all copies—of all orders; from my department records.

Q. Now, I notice that this purchase requisition that you discussed a few moments ago has the quantity 300 ⅛-inch Alemite grease cups changed to 200. Is there any relation between the change of the requisition from 300 to 200 and the Equitable Auto Company's order for 100 grease cups?

A. Yes, sir.

Q. What is that?

A. The order was made for 300 fittings.

Q. That is, your order?

A. Our order was. The Rex Duplex Fitting Company contacted with our purchasing department on this type fitting. They had the order for 300——

Q. Just a minute. The Rex Duplex Fitting Company contacted with your company with reference to which type of fitting—Plaintiff's Exhibit 17 we are talking about?

A. ⅛-inch elbow type.

Q. All right.

A. And they in turn, finding that the fitting was similar to Alemite, for trial gave them an order of 100.

Q. Well, did you get the fittings?

A. We got them and used them.

Q. And the fittings that you received were like this 90-degree elbow fitting (indicating)?

A. Yes, sir.

[fol. 69] Q. Which forms a part of Plaintiff's Exhibit 17?

A. Yes, sir.

Q. Now, you say you used them. When they were received were they placed in your stock?

A. Yes, sir.

Q. And how were they used?

A. Well, they were issued out on demand as the requirements were—or rather, as the request was made on them.

Q. Do the garage or service men in your employ go to the stock room and get fittings, if they need them?

A. Yes, sir.

Q. And what do they do with them?

A. They install them on the vehicle they are charged to.

Q. And do they screw the fittings into the bearings of the automobiles?

A. Yes, sir.

Q. And are those fittings used then in conjunction with the Alemite equipment that you have?

A. Yes, sir; all used in conjunction with them.

Q. And all of those Alemite compressor outfits terminate in these couplers like Plaintiff's Exhibits 5 and 6.

A. That is right.

Q. Were those fittings placed in the same bins as the Alemite fittings in your stock?

A. Yes, sir.

Q. And used interchangeably?

A. Yes.

Q. Does the Equitable Auto Company own a Rex com-

[fol. 70] pressor and coupler outfit like Plaintiff's Exhibit 22?

A. No, sir.

Q. Now, did your company pay for the fittings?

A. Yes, sir; I have the receipted check right here—It is a photostat of the original voucher.

Q. Now, this paper you have handed me is a copy of the original voucher, and it bears the date of May 27, 1932, and in the sum of $7.60?

A. That is right.

Q. Was that in payment for the 100 fittings that your company purchased as you have described in your testimony?

A. Yes, sir.

Q. Now, this voucher is made payable to the Rex Duplex Fitting Company, Fulton Building, Pittsburgh, Pennsylvania, is it not?

A. Yes, sir.

Mr. Ahlberg:

I offer in evidence as Plaintiff's Exhibit No. 30 the voucher identified by the witness.

Q. Did you receive from Rex Duplex Fitting Company any invoice on this transaction?

A. Yes, sir.

Q. Do you have that here?

A. No sir, I have not.

Q. In order to save time, may I ask: Does one of your associates have that here?

A. Mr. Wakelin may have.

Q. Will you look at this paper (handing same to witness), and tell us, if you can, what it is?

[fol. 71] A. It is an invoice for the purchase of the fittings.

Q. Well, is it an invoice from Rex Duplex Fitting Company?

A. Yes, sir.

Q. To whom?

A. To the Equitable Auto Company.

Q. And bears what date?

A. May 19th.

Q. What year?

A. 1932.

Q. And what does it call for?

A. It calls for 100 1/8-inch Rex grease cups, elbow type.

Q. Now, this invoice is in the amount of $8.00 less 5 per cent, making it net $7.60. Is that right?

A. Yes, sir.

Q. And is the check Plaintiff's Exhibit 30 in payment of this invoice?

A. Yes, sir.

Mr. Ahlberg:

I offer the invoice in evidence as Plaintiff's Exhibit No. 31. May I have leave, if your Honor please, to substitute a photostatic copy of this invoice?

The Court:

Have you any objection to a photostatic copy being substituted, Mr. Clarke?

Mr. Clarke:

No, I think not, sir.

[fol. 72] The Court:

It may be done.

Mr. Ahlberg:

You may cross examine.

Mr. Clarke:

No cross-examination.

M. K. Ulrich—Recalled

M. K. ULRICH, recalled for further cross examination, testified:

Mr. Clarke:

Q. Have you counted the fittings in the bag, Mr. Ulrich?
A. I have.
Q. And you find how many?
A. 101.
Q. The one has been added since you made the purchase?
A. I don't know.
Q. Just for good measure?
A. I counted 101. I didn't count them when I purchased them either.
Q. Do you know whether any of these fittings were actually used for the purpose of applying grease?
A. No, I do not.
Q. From their appearance, would it indicate——
A. They are rather greasy; otherwise, I don't know.

[fol. 73] The Court:

Well, it is hardly worth while asking him that. He was just employed to make the purchase, and he did it, and that is all there was to it.

Mr. Clarke:

I merely want to establish the fact that the 100, or in fact 101 fittings, are still intact in this bag; that is all.

Testimony of Elwood Hansmann

ELWOOD HANSMANN, a witness for plaintiff, testified as follows:

I am 33; reside at Glencoe, Illinois; and a member of the firm of Williams, Bradbury, McCaleb & Hinkle, patent attorneys, counsel for plaintiff in this case. I am familiar with the record and proceedings in the case of Bassick Manufacturing Company vs. Lyman Manufacturing Company et al. in the United States District Court at Cleveland, Ohio. A copy of the decree in that case appears at page 536 of Volume III of the book of Opinions, Decrees and Injunctional Orders of United States Courts in Patent Infringement Suits Involving Patents Covering Alemite and Alemite-Zerk Lubricating Equipment. The decree was entered May 20, 1927; this decree was entered following the opinion of the Sixth Circuit Court of Appeals. There was a second appeal to the Sixth Circuit Court of Appeals, involving only claim 7 of the Gullborg patent.

Q. If it is, then it is not the decree we want. I want the main decree entered puruant to the mandate of the Sixth Circuit Court of Appeals.

[fol. 74] Mr. Clarke:

If the Court please, I am a little confused at this stage as to what the purpose of this line of testimony is.

Mr. Ahlberg:

I will be glad to tell you, Mr. Clarke. It will only take a minute. Mr. Balluff, testified that he bought some fittings for use in conjunction with a compressor, which I merely want to identify by this witness as being a Lyman compressor that was enjoined in the Lyman case; and I think it is important, for the reason that there is a case where the Rex fittings were sold and the purchaser did not have a Rex compressor, but had a Lyman compressor. There is a case

where the whole patented combination was used, and the patent owner, the Alemite Corporation, sold no part of it.

Mr. Clarke:

Is this all a matter of record in publications and decrees? Quite an ancient case, isn't it—'27?

Mr. Ahlberg:

Yes; but it is not readily apparent to the Court what that construction is, I think. I want to get in evidence a drawing of what that coupler was, and I can do it in just a minute, I think.

A. The decree which was entered pursuant to both decisions of the Circuit Court of Appeals for the Sixth Circuit is this decree—I misread one paragraph. This the proper decree.

Q. Now what was the date of that decree?

[fol. 75] A. The date of this decree was May 20, 1927.

Q. And that appears at page 536 of Volume III, does it?

A. That is right.

Mr. Ahlberg:

I offer merely that decree in evidence as Plaintiff's Exhibit No. 33.

Q. Now, that decree refers to Plaintiff's Exhibit Chart 11, does it not?

A. It does.

Q. Can you produce a copy of that exhibit chart?

A. I have here a copy of that drawing which formed Plaintiff's Exhibit Chart 11 in this Lyman suit, and referred too in this decree.

Mr. Ahlberg:

I offer the drawing in evidence and ask that it be marked Plaintiff's Exhibit No. 34.

Q. Will you look at this device, Mr. Hansmann, which is Plaintiff's Exhibit 23, identified by Mr. Baluff in his testimony (handing same to witness), and state whether the drawing you have just identified, and which has been offered in evidence as Plaintiff's Exhibit 34, illustrates the compressor and coupler outfit of Plaintiff's Exhibit 23?

Mr. Clarke:

I think they ought to prove that. If this witness knows that to be a copy of the original, from his own connection with that case, I think he might say that. The mere offer of a photostatic copy of a drawing with a title to it does not [fol. 76] seem to me to have any probative value, unless so supported. Objection.

Mr. Ahlberg:

If your Honor please, this witness has testified that he is one of counsel for plaintiff, and that he is familiar with this Lyman record, and I asked him to produce a copy of this Plaintiff's Exhibit Chart No. 11, and he produced this drawing. I don't know what more you want, Mr. Clarke. I don't know what your objection is.

Mr. Clarke:

I merely want to have it positively identified as being a copy of the original exhibit, and if this witness knows that to be true, why, he can say so.

Q. Is this a copy of Plaintiff's Exhibit Chart No. 11 in the Lyman case, and referred to in the decree, Mr. Hansmann?

A. That is a copy of the drawing that forms that chart. The chart itself has some reference characters written on it, which do not appear in this drawing; but the drawing itself is identical with the drawing of that chart.

Q. Now, there was a question pending: Will you state whether this drawing Plaintiff's Exhibit 34 illustrates the compressor and coupled outfit of Plaintiff's Exhibit 23?

A. It does.

Q. Do you know whose product that compressor of Plaintiff Exhibit 23 is?

A. This compressor bears the mark, the name "Lyman [fol. 77] Manufacturing Company, Patents Pending." I am familiar with the compressors which the Lyman Manufacturing Company manufactured and sold, and I believe this to be a compressor manufactured and sold by the Lyman Company.

Q. Mr. Hansmann, will you look at this device (handing same to witness), and state, if you can, what it is?

A. This is a fitting marked "Rex," and which I believe to be a fitting made by the defendant herein. The fitting was

cut open, to have a quarter section cut out, so as to show the internal construction of the fitting. This was done at my direction.

Q. Does that device correspond to one of these ⅛-inch straight fittings of Plaintiff's Exhibit 17?

A. It appears to be identically the same.

Mr. Ahlberg:

I offer the cut-open specimen of the Rex fitting as Plaintiff's Exhibit No. 35.

Q. Will you look at this drawing, Mr. Hansmann (handing same to witness), and state, if you can, what it illustrates,

A. This drawing was made under my direction, and illustrates a Rex Compressor outfit, including the compressor, hose and coupler, and also——

Q. Now, just a minute. By "Rex compressor, hose and coupler outfit," do you mean a device like Plaintiff's Exhibit 16 (handing Exhibit 16 to witness)?

A. Yes.

Q. Now, that drawing of the Rex compressor, hose and coupler outfit is shown with what kind of a fitting?

[fol. 78] A. Shown in connection with what appears to be an Alemite ⅛-inch straight fitting.

Q. That is, in that type of fitting there is an outer shell or tubular member, pin extending across it, and the pin is confined between the pin and the flanged end of the shell. Is that right?

A. Yes.— I think you misspoke: The ball and spring are confined between the cross pin and the flanged end of the shell.

Mr. Ahlberg:

I offer the drawing in evidence as Plaintiff's Exhibit No. 36. —That is all.

Cross-examination:

Plaintiff's Exhibit 36 is the drawing of the Rex compressor and is not related to the Lyman case. Plaintiff's Exhibit 34 is the drawing of the chart in the Lyman case. The chart I referred to was a chart showing defendant's compressor, coupler and fitting involved in the suit brought by the Bassick Manufacturing Company against the Lyman Manufacturing Company in Cleveland.

Q. This particular drawing Plaintiff's Exhibit 34 is only a portion of that complete chart. Is that it?

A. The drawing Plaintiff's Exhibit 34 is complete so far as the figures are concerned. The chart itself has on it some reference numerals, which were put on in pencil, and which do not appear on this drawing.

Q. Which particular figure in this drawing, Exhibit 34, shows the Lyman fitting or oil cup?

[fol. 79] A. The figure is not numbered. This figure—Well, all three figures show what appears to be the Lyman fitting or oil cup, taking it as having three figures.

Q. And do you observe any checking correspondence between that particular construction and the one identified in the drawing Exhibit 36? Are they similar in your opinion?

A. The fittings, you mean?

Q. Yes.

A. The fittings are similar; they differ in that in this fitting shown in the Lyman chart the spring is supported on a little shoulder formed in the tubular shell itself, whereas in the chart or drawing Plaintiff's Exhibit 36 the spring of the check valve in the fitting is supported on the cross pin.

Q. Otherwise you consider them the same?

A. Otherwise they appear to be substantially the same.

Q. Now, was an opinion written in this particular Lyman case?

A. Yes.

Q. Do you know whether it is reported?

A. It is my recollection that the—Opinion in the Court of Appeals, do you refer to?

Q. Yes.

A. Reported in 18 Federal 2d, 29, is my recollection. There was a second opinion written on a second appeal, and I do not know where it is reported.

Q. And was that a case alleging contributory infringement or actual infringement?

A. That was a case alleging both.

[fol. 80] Q. And the Court so held?

A. Yes; that is my understanding.

Mr. Clarke:

That is all.

Mr. Ahlberg:

That is all.

Mr. Ahlberg:

On behalf of the plaintiff, I offer as Plaintiff's Exhibit No. 37 a certified copy of Gullborg patent No. 1,307,734.

As Plaintiff's Exhibit No. 38, I offer in evidence a certified copy of a disclaimer of Claim 12 of Gullborg patent 1,307,-734.

As Plaintiff's Exhibit No. 39, I offer in evidence a certified copy of the file wrapper and contents of Gullborg patent No. 1,307,733; and as Plaintiff's Exhibit No. 40, a certified copy of the file wrapper and contents of Gullborg patent No. 1,307,734.

Plaintiff rests.

DEFENDANTS' TESTIMONY

Testimony of Patrick C. Gasparin

PATRICK C. GASPARIN, a witness for defendants, testified as follows:

I am fifty-two; reside at 413 Grant avenue, Milvale, Pa.; and am a machinist for Rex Duplex Fitting Company and have been with them about a year and a half. They make [fol. 81] screw machine products. hand guns for lubricating automobiles and machinery. There is a cooperating member for transmitting lubrication to the part to be lubricated used with the gun and known as the Rex fitting. I have direct connection with the manufacture of that fitting and the gun and its parts.

Q. I show you a specimen article, and ask you if you know what that is (handing same to witness)?

A. That is a Rex fitting and coupling used to lubricate automobiles and any machinery. I supervised the making of it. It is an enlarged specimen and was made particularly for the purpose of illustrating its interior.

Q. Now, calling your attention to the projecting pins on the fitting, do these pins run completely through from one side to the other?

A. No.

Q. How are they made?
A. We call them lugs.
Q. Lugs?
A. A lug put in from each side.
Q. And is that your customary way of making those?
A. The customary way of making them.
Q. Has the Rex Company always made them that way?
A. As long as I have been with them.
Q. That is, for the last year and a half?
A. Yes, sir.
Q. You don't know of them ever having been made by that company other than that?
A. Not to my knowledge.
[fol. 82] Q. Now, I call your attention to the so-called bayonet joint portion of this entire fitting. Is that representative of the way in which the connection has always been made?
A. Yes, sir.
Q. The slots in which the pins engage now have always been made straight across?
A. Always made straight, yes.
Q. You never made them in an incline?
A. No.
Q. Unscrewing the inner portion of this part of this device, I call your attention to the part colored red. What is that?
A. Sealing washer.
Q. What is that made of?
A. Leather.
Q. Is that held in there in any particular manner?
A. Pressed in.
Q. Is it reinforced or held in position by any spring action, do you know?
A. No, sir.

Mr. Clarke:

I offer this specimen as Defendants' Exhibit "A."

I am accustomed to working from drawings and the drawing (handed the witness) is a correct representation of the construction Defendants' Exhibit A.

Q. I observe in this drawing a part marked small d. What is that?
A. That is the body of the fitting.

Q. And that also appears in the physical——

[fol. 83] A. Pardon me a moment. That is not the body; that is a tube which we use to hold the spring up in place.

Q. And is that also present in the physical specimen Exhibit "A"?

A. It is, yes, sir.

Q. This part marked small b is the sealing washer you have spoken of?

A. Sealing washer.

Q. Which is colored red in the physical model?

A. Yes, sir.

Mr. Clarke:

I offer this drawing as Defendants' Exhibit "B."

Q. I show you another print of a drawing, and ask if you know what that is (handing same to witness)?

A. I am familiar with the Alemite coupling and believe that is the Alemite coupling. I have seen its interior and know how it operates. Rex Duplex Fitting Company has never manufactured any coupling like that shown in this drawing.

Q. Has it ever manufactured a fitting in the same way in which this fitting is illustrated in this drawing, for cooperation with the coupling?

A. No, sir; our fitting always has a tube to support the spring and pump.

Mr. Clarke:

This drawing is offered as Defendants' Exhibit "C".

[fol. 84] I received my instructions as to my employment from G. S. Rogers, who, I believe, is an officer in Rex Duplex Fitting Manufacturing Company.

Q. And has Mr. Rogers ever instructed you to build these fittings and couplings in any manner different from that shown in this drawing Exhibit "B"?

A. I was always instructed to keep in exact accordance with the patent that was granted to him. I do not know very much about the practice of the company in disposing of its products, other than I have heard him instruct to sell them in combination at all times.

Mr. Ahlberg:

I move to strike that, if your Honor please, as hearsay. Here is the man that works in the shop exclusively and he says he overheard someone say that this Rex Compressor and-coupler ought to be sold in combination, I presume with Rex fittings; he doesn't say who. It is a self-serving declaration. I move it be stricken; and on the further ground it is hearsay.

The Court:

We will strike it out.

Q. You never gave any instructions of that kind yourself, as to how it should be sold?

A. No, sir.

Q. That is a matter out of your province anyhow, isn't it?

A. Yes.

Mr. Clarke:

Cross-examine.

[fol. 85] Cross-examination.

Mr. Ahlberg:

Q. You said you were familiar with the Alemite coupler outfit, did you not, Mr. Gasparin?

A. Yes, sir.

Q. Is this device of Plaintiff's Exhibit 5 (handing same to witness) an Alemite coupler, as you are familiar with it?

A. From all appearance, yes, sir.

Q. Now, you said this drawing which you identified as Defendants' Exhibit "C" was a correct representation of an Alemite coupler. Will you point out in this drawing where you see anything that looks like an Alemite coupler?

A. It has a cup washer which comes in contact with the fitting, when applied.

Q. All right; what else?

A. And it has that inclined bayonet tip on it, that is, that taper——

Q. Now, Mr. Gasparin, I don't know if you testified in patent cases before, but when you refer to "This here", the record won't show what you are talking about. If there are

reference characters on the drawing, will you use those in describing your drawing?

A. All right. Will you ask that question?

Q. (Question read.)

A. That is part 26, 23 and 27.

Q. Well, now, Mr. Gasparin, in an Alemite coupler such as this device of Plaintiff's Exhibit 5, the coupler consists of an outer shell, does it not?

A. That is true.

[fol. 86] Q. And there are two cup leathers in there, inside?

A. Two cup leathers inside.

Q. Where are the two cup leathers in that drawing you have?

A. It shows one; I presume the other would be on top.

Q. That is not a drawing then of an Alemite coupler, is it?

A. As far as this part is concerned (indicating), it is an exact copy.

Q. Now, the external appearance of the coupler is not the same as shown on that drawing, is it?

A. Only on part 23, 26, 25 and 28.

Q. Mr. Gasparin, that drawing doesn't show two cup leathers?

A. This shows the one cup leather.

Q. It is true, is it not, that that is not a drawing of this Alemite coupler?

A. Not the one you have in your hand, no.

Q. Well, or any other Alemite coupler that you ever saw?

A. When I first looked at this drawing, I took it for granted it just showed a portion of the lower part of the coupling, from here down (indicating).

Q. Well, it is true, is it not, that that is not a true drawing of an Alemite coupler?

A. It is not a true drawing of that coupler there, no (indicating plaintiff's exhibit).

Q. Well, did you ever see an Alemite coupler of which this is a true representation?

A. No, I did not.

[fol. 87] Mr. Ahlberg:

Then, if your Honor please, I move to strike from the record the Defendants' Exhibit "C", as not a drawing of the Alemite coupler outfit. It has no value; it is only confusing

to the Court. The witness says it is not a drawing of the Alemite coupler outfit.

Mr. Clarke:

If your Honor please, this drawing is an enlarged accurate, exact reproduction of the drawings of the patent. We presume that the Alemite construction follows its patent. If counsel is admitting that it does not, I am entirely satisfied to withdraw this drawing from this witness.

The Court:

The drawing Exhibit "C" is withdrawn, then, as I understand it?

Mr. Clarke:

Yes; we will prove it otherwise.

Testimony of R. W. Dusenberry

R. W. Dusenberry, one of defendants, testified as follows:

I reside at Bellevue, Pa., and am acting as assistant sales director of Rex Duplex Fitting Sales Company. The Sales Company sells the greasing equipment product of the Rex Duplex Fitting Company. We always endeavored to follow a definite policy of selling complete equipments. We have at times had them sold separately.

[fol. 88] Mr. Kidd was a distributor for the Rex Duplex Fitting Sales Company.

Q. I show you an advertisement marked Plaintiff's Exhibit No. 29 (handing same to witness), in which he is identified as "sole agent for the Rex Duplex High Pressure Gun." Do you know anything about that?

A. I do not. This is the first time I ever saw it.

Q. Your company had nothing whatever to do with the issue or authorization of this advertisement, had it?

A. It had not.

Q. You never saw it before today?

A. I did not.

Q. As a matter of fact, is or was Mr. Kidd ever sole agent——

A. No.

Q. —for your concern or the manufacturing concern?

A. Not by any authority from us.

Q. You say he was simply a distributing agent?

A. He was.

Q. And what were his rights or privileges as a distributing agent?

A. He had a price set at which he bought the goods, and sold them as he was able to.

Q. Well, were any limitations placed on Mr. Kidd as to such sales, as to whether they should be partial or complete as to the entire equipment?

A. He was instructed to sell them in combination.

[fol. 89] The Court:

Q. What do you mean by "sell them in combination"?

A. A coupler—May I have that exhibit there, that looks like ours, with the red gun? (Plaintiff's Exhibit No. 16 handed to witness.) This we call a complete combination of fitting outfit. They are instructed always to be sure to see that that was sold in combination. Of course, I can't reach out always and make the man sell it that way. The man ofttimes, in need, when the temptation is great, sells them individuually.

Mr. Clarke:

Q. How about the small grease cups, or fittings? How were they sold?

A. To be sold always with our coupler.

Q. Did you ever authorize any sales of the grease cups, or fittings, separately from the coupling and the gun?

A. If the customer had our combination, yes.

Q. You mean, if the customer previously had a compressor?

A. Yes.

Q. And a coupling on it?

A. Yes.

The Court:

Q. Do I understand you to mean by that, that you instructed your salesmen only to sell the fitting separately to persons who had your grease gun?

A. No, not necessarily the grease gun; he must of necessity have the coupler.

Q. The coupling also?
[fol. 90] A. Yes.

Mr. Kidd was connected with the Rex Duplex Fitting Sales Company from sometime in January, '32, I think up until September. Mr. Kidd evidently violated the rule of selling as a combination. I know about a sale of grease cups to the Equitable Auto Company in May of 1932.

A. I recollect Mr. Kidd coming in with the order, asking us if we wouldn't kindly deliver them to them, and make out a bill for them, which was executed, and the order turned over to one of the stenographers there to bill to them.

Q. Well, did the Equitable Auto Company have a compressor, do you know?

A. No, I do not.

Q. Well, that seems to have been a violation of this rule of yours?

A. *It does.*

Q. Was that done deliberately, do you know, or how did it happen that this sale of grease cups to the Equitable Auto Company was made, if they did not have a compressor and coupler of the Rex manufacture?

Mr. Ahlberg:

Just a minute; we are getting so many names in here. Do you mean Rex Manufacturing Company?

Mr. Clarke:

The Rex Company.

The Witness:

The Rex Duplex Fitting Sales Company.

[fol. 91] Mr. Ahlberg:

You refer to Rex Duplex Fitting Company, Mr. Clarke. The defendants in this case are Rogers and Dusenberry. As I understand it, Rex Duplex Fitting Company is not a corporation, it is merely an assumed name used by Mr. Rogers. Is that right?

Mr. Clarke:

"Trading as," I think is the way you brought the bill—"doing business as Rex Duplex Fitting Company," is the way you entitled the defendant yourself.

Q. (Question read)—of the Rex Duplex Fitting Company manufacture. Now, do you have that question? (Question again read, with amendment.)

A. It was a mistake, is all I can answer; it wasn't deliberate.

Q. Have you ever heard of any other instance just like this transaction with the Equitable Auto Company?

A. Not to my knowledge, that I can recall now.

Q. And has your constant effort and practice been to always confine sales to complete equipments, including compressor, coupler and fitting, or of fittings where there has been an original sale to the same purchaser of the compressor and coupler?

A. Try to, always.

Mr. Clarke:

That is all.

[fol. 92] Cross-examination:

I am proprietor of the Rex Duplex Fitting Sales Company, selling organization of the Rex equipment like Plaintiff's Exhibits 16 and 17. We buy compressors, couplers and fittings from Mr. G. S. Rogers, the proprietor of the Rex Duplex Fitting Company, having a factory at Oakmont, Pennsylvania. Dusenberry and Rogers have offices in the same suite in the Fulton Building. I have nothing to do with the Universal Lubricating Company, which company has an adjoining office in the Fulton Building, with a different entrance, and a communicating door.

Q. Now, are you familiar with a sale of 33,000 fittings to the War Department at Dayton, Ohio, about two months ago, of Rex fittings?

A. I remember the order coming in.

Q. You don't get orders like that every day, do you?

A. No.

Mr. Clarke:

I don't think this is cross-examination, your Honor. That is a new order, that the witness was not asked anything about on direct, as I recollect.

Mr. Ahlberg:

Well now, this witness testified on direct examination, if your Honor please, that they always sold these fittings in combination, he said——

The Court:

Well, if they propose to follow this up by asking him whether he knew that the purchaser of that large order was [fol. 93] equipped to use only their complete equipment or not, I think it would be proper to ask him this question.

Mr. Ahlberg:

That is what I want to find out.

Mr. Clarke:

If he is talking about the same fittings, of course, your Honor—the same subject matter.

The Court:

Well, this witness on his examination in chief testified that their instruction to their salesmen was only to sell in combination, and if they sold the fitting separately, only to sell to persons where they needed those fittings for replacements. Now counsel has asked him about a sale of a certain number of fittings to—the War Department, did you say?

Mr. Ahlberg:

Yes, sir.

The Court:

And I think that that is proper cross-examination, provided he intends to follow that up by ascertaining whether this witness knew that the United States Government was equipped to use them in the correct combination or not.

I believe there was a sale of 33,000 fittings to the War Department at Dayton, Ohio. Mr. Rogers attended to that. So far as I know, the fittings were sold by Mr. Rogers. These fittings were the type ⅛ straight fittings, but not [fol. 94] exactly like Plaintiff's Exhibit 17.

Q. The difference was that the spring was a little stronger, or a little weaker, on the inside of the fitting. Wasn't that true?

A. I can't answer that, for I didn't see the fitting itself.

Q. Now, the fittings were described as ⅛-inch straight fittings?

A. Yes, sir.

Q. Now, wherein did those fittings delivered to the War Department differ from the straight ⅛-inch fittings of Plaintiff's Exhibit 17?

A. Plaintiff's Exhibit 17, let me see—This (indicating)?

Q. Yes.

A. Well, I am not enough of a technical man to fully tell you and describe those.

Q. Well, as far as the outside dimensions are concerned, the fittings were the same. Is that true?

A. To my appearance, yes.

Q. And there were pins extending from both sides of the fittings you sold the War Department?

A. Yes.

Q. The dimensions were such that the fittings could be used in conjunction with Alemite couplers of the type of Plaintiff's Exhibit 5. Isn't that true?

A. I believe so. I never saw it demonstrated.

Q. Did the War Department buy any Rex compressor and coupler outfits?

A. That I do not know.

Q. Well, you never sold them any?

A. Not myself.

[fol. 95] Q. The chances are that the War Department will use those fittings in conjunction with Alemite couplers like Plaintiff's Exhibit 5?

A. I can't answer that; I don't know.

Mr. Clarke:

I object to that.

The Court:

Well, the witness says he can't answer that. So it is all ended anyway.

I helped to prepare the price list marked here as Plaintiff's Exhibit 14-a.

Q. Now, this price list reads as follows, does it not? "The following is a schedule of special state distributors' prices which we are pleased to quote you"—The circular is dated April 14, 1932, is it not?

A. April 14, 1932. I presume this one we had. It looks like it.

Q. At the top it says "Rex Duplex High Pressure Hand Gun," and then there is a list: "Gun complete with hose, each $4.30; gun only, less hose, each $2.45; gun only, with coupler, each $1.85; hose only, less coupler, each $1.40; coupler only, 75 cents." Then under the heading "Rex Duplex Fittings" there is a list: "⅛-inch straights $25 M" —I suppose that means $25 a thousand, does it not?

A. Yes.

Q. (Continuing): "⅛-inch 90 Degrees, $50 M; ⅛-inch 45 Degree, $60 M; ⅛-inch extra long, $60 M; ⅛ by ⅕ brass bushing, $40 M." Now, the 90 degrees item here, that refers [fol. 96] to fittings like this 90-degree angle fitting of Plaintiff's Exhibit 17, does it not? (Handing same to witness.)

A. Yes. Is this one of your fittings?

Q. No; that is yours.

A. At least, it looks like it.

Q. Well, it is the fitting of Plaintiff's Exhibit 17?

A. Yes.

Q. You are right, Mr. Dusenberry; they do look like ours. You can hardly tell them apart. Isn't that true?

A. No; I can tell them.

We also make 45-degree elbow fittings; in that type the base is sawed off 45 degrees and the tubular member is screwed into that base. In response to the price lists sent out, we probably received orders; I can't tell offhand; I would have to go back and look it up. I have no doubt we did.

Q. What would you do if you received an order for 1,000 ⅛-inch straight pun fittings from Geller, Ward & Hasner, of St. Louis, for instance?

A. Why, I tried to follow out our instructions relative to the complete outfit.

Q. Well, if you received an order for a thousand ⅛-inch straight fittings, would you write to Geller, Ward & Hasner and tell them that you couldn't fill the order?

A. No; I would tell them that we had the complete outfit—the gun, as we call it, the compressor, the hose and the deductor, and suggest that they take that with it.

[fol. 97] Q. Well, did you have a form letter for situations like that?

A. No.

Q. Well, did you ever write to anyone and say that because of a patent situation you could not fill the order for fittings alone?

A. No, never that; we would speak of our combination, but never referred to anything about a patent.

Q. Well, if you received an order for 1,000 fittings from Geller, Ward & Hasner, without any order for hose and couplers, would you fill the order or not?

A. Just as I said; we would first write to them and explain relative——

Q. Well, did you receive orders for fittings alone?

A. I did; this year.

Q. Did you fill them?

A. Yes.

Q. Without writing them——

A. They had received previous though—bought previously our guns and hose and coupler.

Q. Well, how about Equitable Auto Company?

A. That was a decided fault or mistake.

Q. Well, how about Wade's Service, they bought fittings from your representative and had no Rex outfit?

A. No; Mr. Kidd had it though, and was instructed so.

Q. How did Mr. Kidd get his fittings?

A. He had the outfit, then he sold them the fittings.

[fol. 98] Q. You know he was not using them in combination, do you not?

A. Why, he sold them.

Q. You knew he sold fittings alone, did you not?

A. He did to this Equitable Auto Company.

Q. Well, he did to Wade Service also, did he not?

A. Yes.

Q. And he did also to Mr. Ulrich, did he not?

A. Yes, as he told you.

Q. You heard his testimony here this morning?

A. Yes.

Q. He also sold the City of Pittsburgh fittings alone, did he not?

A. I believe so.

Q. And it probably would get tiresome to enumerate all the cases where fittings alone were sold, without compressor and coupler. Isn't that true?

A. I don't think so, for our sales weren't so abundant. Mr. Kidd didn't sell enough to take care of himself, and complained about it, and asked for permission to take up something else for sale, which was granted to him, because his time was his own.

Q. Now, you say you did receive orders in the mail for fittings alone?

A. Yes, I told you we did.

Q. And you filled them?

A. Filled them, yes.

Q. Without inquiring whether the customer had a Rex compressor and coupler outfit?

A. We knew that they did.

Q. Well, in what cases? Can you name a specific instance?

[fol. 99] A. Why, the C. Larson that was testified here, in Chicago.

Q. All right; let us take up C. Larson. C. Larson was a distributor, was he not?

A. Yes.

Q. And did you instruct him to sell them only in combination, that is, sell the Rex compressors, couplers and pin fittings, in combination?

A. I am tempted to say yes, but I would have to look up to make sure.

Q. That is, you don't know whether Mr. Larson was instructed to sell them only in combination or whether he might, under his authority, at least sell fittings alone, or compressors and couplers alone.

A. Well, he was not so instructed from us; he bought the outfit from us complete.

Q. Well, he bought maybe five hundred fittings, did he not?

A. Possibly that, and he bought the guns and the hose and the coupler.

Q. How many guns and how many couplers?

A. I would have to look it up to tell you the exact amount. He bought quite a number of guns, hose and couplers.

Q. Well, if you gave any instructions to your distributors to sell these compressors, hose and couplers and fittings only in combination, you knew that they could not be very effective or binding, did you not?

A. Not where I couldn't keep my hand on them.

[fol. 100] Q. No. When you sold the fittings to your distributors, they were enabled to do with them what they pleased. Isn't that true?

A. Being a separate business, why, yes; I couldn't——

Q. And you know it was the regular practice of your distributors to sell these fittings for use in conjunction with Alemite coupler outfits. Isn't that true?

A. I can't say I know. I suspect, though, that many did.

Q. And in a few cases at least, you know that happened?

A. Yes.

Q. Now, Mr. Dusenberry, do you think we have a pretty fair collection of the advertising matter of the Rex Duplex Fitting Company and the Rex Duplex Fitting Sales Company here in this Plaintiff's Exhibit 14?

A. I don't know; I wouldn't say you had a fair collection. You have some collected, oh yes.

Q. Well, will you look through these and see if there is any restriction at all——

The Court:

It is now four o'clock; we will adjourn until tomorrow morning at ten o'clock.

(Adjourned until Friday, November 3, 1933, at 10:00 o'clock A. M.)

[fol. 101] Friday, November 3, 1933

Morning Session

R. W. Dusenberry—Resumes

R. W. DUSENBERRY resumes the stand.

Cross-examination continued:

Mr. Ahlberg:

When we adjourned yesterday, I had started to ask a question and it was discontinued, I think about in the middle of it. I ask that that be stricken out, and I will ask a new question.

I have been connected with the Rex lubricating equipment business a little over two years, since about the time the Rex Duplex Fitting Sales Company commenced. The Sales Company buys all the output of the Rex Duplex Fitting Company, Mr. Rogers' company.

Q. Then you participated in this sale of 33,000 fittings to the War Department that we referred to yesterday. Is that right?

A. They haven't been delivered yet.

Q. You have been awarded the contract for the fittings, though, have you not?

Mr. Clarke:

If your Honor please, it seems to me this line of cross examination is entirely improper. The witness is being asked about a very recent purchase, or sale, or contract. It seems to me that not only is not cross examination; it is introducing into the record matters which have come into existence, if they have, since this bill was filed. We are here responding to the allegations of the bill.

[fol. 102] The Court:

I assume that in an equity suit, especially a suit for an injunction, the conduct of the business since the suit was brought may be of importance.

Mr. Clarke:

It may be, and in connection with the accounting proceedings is entirely proper, but to develop the activities of

a defendant, especially in connection with the procurement of a contract——

The Court:

I think, in view of the testimony of this witness, that the sale, for instance, to the Pittsburgh utilities company—whatever the name of it was——

Mr. Ahlberg:

Equitable Auto Company.

The Court:

—to the Equitable Auto Company, was just an incidental sale, without knowledge of whether or not they had the regular Rex equipment, and the testimony of this witness that it was unintentional, it might be proper on cross examination to develop these additional facts—to show about this sale to the War Department, for instance, and what knowledge, if any, the witness had with reference to the uses that the War Department had to make of the devices they were purchasing. I think we will permit the cross examination.

Mr. Clarke:

[fol. 103] May I have an exception?

The Court:

We note you an exception.

Mr. Clarke:

If I may add, your honor: We are interested in the same kind of devices, I presume as are complained of in the bill, and as developed in the proofs tending to support infringement heretofore offered; and it seems to me, if this matter is to be gone into, it should first be established that the construction inquired about is a similar construction. Otherwise, it seems to me, it is a fishing expedition, to get information for the purpose and benefit of this plaintiff.

The Court:

Well, I assume, when one of the parties to a suit takes the witness stand in his own behalf, and states that he has

not undertaken to make any sales of separate parts that would fit into the plaintiff's combination, patented combination, but undertakes to sell only his own patent combination, that they have a right to quite searchingly inquire into his operation. We will permit them to do so.

Q. (Question read, as follows: You have been awarded the contract for the fittings, though, have you not?)

A. Yes.

Q. Now, was that award made to Rex Duplex Fitting [fol. 104] Sales Company or Rex Duplex Fitting Company?

A. I am not sure of that. I would have to look that up again. I think Rex Duplex Fitting Sales Company.

Q. Well, under the arrangement that you have adopted—

A. I will tell you, Mr. Rogers handled that.

Q. You said a few moments ago that your company, the Rex Duplex Fitting Sales Company, handled all of the sales and all of the output of the Rex Duplex Fitting Company?

A. Yes; but he was simply the contact man.

Q. Well, was he the contact man for Rex Duplex Fitting Sales Company, or was he acting in his own behalf?

A. He was acting for us.

Q. He was acting for you. Well then, you, as proprietor of the Rex Duplex Fitting Sales Company, expect to participate in the profits from that transaction with the War Department, if there are any profits, do you not?

A. Yes.

I participated in the preparation of the circular Plaintiff's Exhibit No. 41. They were printed a year or more ago. This circular shows an improved coupler and in general shows and describes the equipment of Plaintiff's Exhibit 16.

Q. Now, this circular reads in part, does it not: "Rex Duplex High Pressure Gun is adaptable to all lubricating systems and connectors," does it not?

[fol. 105] A. Repeat that question, please.

The Court:

The paper speaks for itself, and whatever is on it is on it. Isn't that all there is to it? You don't need to ask this witness to read it; the Court can read it as well as he can.

Q. Now, what do you mean, Mr. Dusenberry, by this language: "Rex Duplex High Pressure Gun is adaptable to all lubricating systems and connectors"?

A. Show me that on there, please.

Q. Right here (indicating).

A. "Is adaptable to all lubricating systems and connectors equipped with Rex Duplex 10,000 lb. pressure hose."

Q. Now, Mr. Dusenberry, there is a semicolon, is there not, after "connectors"?

A. Yes.

Q. Well, wouldn't you expect a person reading this circular to pause after the clause "Rex Duplex High Pressure Gun is adaptable to all lubricating systems and connectors," semi-colon?

A. If he did, it wasn't our intention that it should so be read.

Q. Well, that is ordinarily the purpose of a semi-colon, isn't it—to divide up a sentence?

A. It may be, but our purpose—we were in business selling the complete equipment, and we wanted to sell these outfits (indicating) just as well as we did the others.

Q. Well, taking the sentence as you read it: "Rex Duplex High Pressure Gun is adaptable to all lubricating sys-
[fol. 106] tems and connectors, equipped with Rex Duplex 10,000 lb. pressure hose, with coupler complete, automatic self-feeding." Now, what did you mean by that language?

A. I don't know that I can better explain than what it says right there itself.

Mr. Clarke:

If your Honor please, the language speaks for itself. It isn't competent for this witness to explain printed language.

Mr. Ahlberg:

If your Honor please, the reason I am pursuing this line of examination is this: In these cases involving contributory infringement the alleged infringer's understanding and intention is important to be proven and understood by the Court, and I think that the only way we can develop the defendant's understanding and expectation is to find out what his views about the matters were.

The Court:

We will let the witness answer the question.

Q. (Question read.)

A. Just exactly what it says.

Q. Well, does it mean that the Rex Duplex high pressure gun, with coupler, was adapted for use with all lubricating systems, including the Alemite system?

A. That wasn't our thought—or not my thought; it is our own.

[fol. 107] Q. Now, when you say "adaptable to all lubricating systems," what do you mean by "all lubricating systems"?

A. Wherever greasing equipment like this can be used, of ours, on any car.

Q. On any car, including those equipped with Alemite fittings?

A. While that may fit the Alemite fitting, that wasn't our intention.

Q. Well, it does fit the Alemite fitting, does it not?

A. From what has been shown right here, yes.

Q. You have frequently inserted Alemite pin fittings in your coupler of Plaintiff's Exhibit 16, to see if it would cooperate with the coupler, have you not?

A. Well, I think possibly once, when one was brought in.

Q. Did you participate in the design of this equipment.

A. No.

Q. That was designed prior to your connection with the Rex Duplex Fitting Sales Company?

A. Yes, except for some improvement.

Q. Well now, this language "is adaptable to all lubricating systems,"—that would include the Alemite system, would it not?

A. Well, it wasn't our intention that that was included.

Q. Now, we have here one system called the Rex system. Is that right?

A. Yes.

Q. Do you know of any other lubricating system?

[fol. 108] A. I know of yours, that you represent.

Q. You know of the Alemite equipment?

A. Yes.

Q. Do you know of any others?

A. I think there is one or two, but I am not sure. In New York, I think—is there not Adams?

Q. Adams doesn't make fittings, does it?

A. I am not sure.

Q. Well, then, to the best of your knowledge and belief, this language "is adaptable to all lubricating systems" is not including only Rex and Alemite. Is that correct?

A. I wouldn't say so, no.

Q. Well, I am giving you the fullest opportunity to say whether you knew of any other system. Can you tell us of any other system that would comprise fittings that would be received into the Rex coupler, of the Plaintiff's Exhibit 16?

A. There are one or two other manufacturers of greasing equipment, but just how much of the fittings they make, I do not know.

Q. Well, there isn't anyone that makes fittings adapted to be received into a Rex coupler like Plaintiff's Exhibit 16, is there?

A. That I don't know.

Q. But you do know that Alemite fittings are extensively used and installed on automobiles, do you not?

A. Yes.

Q. And as far as you know, the Alemite pin fittings are standard equipment on automobiles, to the exclusion of any other type of equipment that would be usable with the Rex [fol. 109] couplers of Plaintiff's Exhibit 16?

A. I suppose so, but I couldn't say definitely yes.

Q. Now, Mr. Dusenberry, in Plaintiff's Exhibit 35 we have a cut-open sample of the Rex fitting, have we not (handing same to witness)?

A. It looks like it; I guess it is.

Q. Well, you have been making and selling these things for two years. Is there any question about it?

A. Outside of this, I have seen imitations made so well that I would say it was— The one here was stamped on it, and I believe—it looks so much like it, I would be willing to say it is, but to say definitely, I cannot, for I don't know the source of it.

Q. Well, as far as you can see, it is identical in construction with the Rex fitting, is it?

A. Yes; what is known as the Rex fitting.

Q. And unless someone has deliberately made a counterfeit, this is a Rex fitting. Isn't that true?

A. As far as I can say.

Q. Now, Mr. Dusenberry, what do you call these porjections that extend from each side of the shell of the fitting? Do you call those pins, or lugs, or what do you call them?

A. Lugs.

Q. You call them lugs. Don't you ever call them "pins"?

A. Well, they have had; they are called pins, and I know what they mean.

Q. But you call them lugs?

A. Yes.

[fol. 110] Q. Now, I notice in this circular, Plaintiff's Exhibit 41, the second paragraph commences "No shearing of pins." What did you mean by that?

A. Taking these off here (indicating on Plaintiff's Exhibit 35).

Q. You didn't mean by that that the compressor and coupler outfit wouldn't shear off the pins of an Alemite pin fitting, did you?

A. No; this is all for our own.

Q. Now, in the last part of this paragraph of the circular Plaintiff's Exhibit 41, we find "Sold complete or in separate units, as required." That means, I presume, that you would sell the customer either the gun, hose and coupler, Plaintiff's Exhibit 16, or you would sell it in conjunction with the Rex fittings of Plaintiff's Exhibit 17. Is that right?

A. Let me see 17, and see what you mean.

Q. 17 is the collection of your f[illegible] (handing Plaintiff's Exhibit 17 to witness.)

A. It means that after the customer had this complete outfit he could buy just what he wanted.

Q. That is, after he had purchased what?

A. Our complete outfit—compressor, hose and coupler.

Q. And otherwise, you wouldn't sell him any fittings. Is that true?

A. Not knowingly or intentionally to be used on others.

Q. You couldn't exercise any control over the use of the Rex compressor and coupler outfit after they had left your hands?

A. No more than Alemite Company can with theirs.

[fol. 111] Q. Those instructions to a salesman or a——

A. A distributor.

Q. —or a distributor would be about as effective as the application of a label to intoxicating liquor "For Medicinal Purposes Only." Isn't that true?

A. I couldn't answer that; I don't know. You know as much about that as I do.

Q. Probably do. Well, you know that it would not be effective, do you not?

A. I know it has not been effective at times.

Plaintiff's Exhibit No. 42 is a circular we sent out, and bears the name "Rex Duplex Fitting Sales Co." and was

prepared and circulated to the trade and handed to distributors.

Q. This circular has on it an illustration, illustrating generally at least the Rex compressor and coupler outfit of Plaintiff's Exhibit 16, does it not?

A. To a fair degree. You can see that that is missing there (indicating). Let me see here (witness examines Exhibit 16). That is an improved one (indicating circular referred to).

Q. Does that illustration conform more strictly to the equipment that I now show you (handing same to witness)?

A. I wouldn't think so; I don't know—No—to a degree it does, but not—(witness does not finish).

Q. Have you seen this type of equipment before?

A. Why, I don't remember ever seeing it.

Q. You don't remember ever seeing a compressor and coupler outfit like this outside of the court room?

A. I may have seen them passing, on boards of greasing and service stations, but I never examined them.

[fol. 112] Q. Did you ever see any like this in your office?

A. I don't remember of ever seeing them.

Mr. Ahlberg:

I offer this circular in evidence, and ask that it be marked Plaintiff's Exhibit No. 42.

Q. Now, in the last paragraph of this circular (Exhibit 42), Mr. Dusenberry, there is a sentence reading, "A Rex 10,000 lb. high pressure grease hose with a Rex Duplex coupler complete is supplied with each unit, which is adaptable to all lubricating systems and connections." What did you mean by that language?

A. Just what I said before, for our own. I had no idea whatsoever of Alemite in any of this.

Q. Well, the language of the last paragraph of this circular letter, Plaintiff's Exhibit 42, is substantially identical to the language appearing on the circular, Plaintiff's Exhibit 41. Isn't that correct?

A. Let me see, please.

Q. (Exhibits 41 and 42 handed to witness.)

A. The last paragraph?

Q. Yes.

A. The last paragraph of the circular Plaintiff's Exhibit 42 is substantially identical to the last paragraph of the circular Plaintiff's Exhibit 41.

The Court:

I don't see why you need ask this witness to make the comparison. The two papers speak for themselves.

The Witness:

Your Honor, I think so, too.

Q. Well, your testimony with reference to the last para-
[fol. 113] graph of Plaintiff's Exhibit circular 42 would be the same as with reference to the descriptive matter appearing on Plaintiff's Exhibit 41. Is that correct?

A. They are intended for the same kind of equipment, our equipment.

Q. Mr. Dusenberry, did you prepare or participate in the preparation of these pieces of Rex advertising matter comprising Plaintiff's Exhibit 14, "a" to "i," inclusive, and Plaintiff's Exhibit 18 (handing Plaintiff's Exhibits 14-a to 14-i, inclusive, and Plaintiff's Exhibit 18 to witness)?

A. (Witness examines exhibits referred to, individually.) More or less all of these (indicating); I had nothing to do with that (indicating one exhibit).

Q. You did not prepare or participate in the preparation of the letter forming Plaintiff's Exhibit 14-i. Is that correct?

A. That is right.

Q. That is a letter signed "Rex Duplex Fitting Sales Company, C. H. Emery," is it not?

A. Yes.

Q. That is a letter that he wrote himself, apparently?

A. Apparently, yes, sir.

Q. Now, Mr. Dusenberry, certain of the circulars of Plaintiff's Exhibit 14 and Plaintiff's Exhibit 18 are merely price lists, are they not; and the other papers of that exhibit are letters or circulars?

A. Now, these (indicating)—you want to know—are price lists? Is that it?

Q. Yes. Will you enumerate the price lists?

[fol. 114] The Court:

Well, don't these things show on the face of them? Why do you need to take the time doing that?

Mr. Ahlberg:

All right. I will ask another question.

The Witness:

May I read the very first here?

Mr. Ahlberg:

Yes.

The Witness:

"The attached literature describes the line of Rex Duplex high pressure grease hand guns, also copies of letters to the trade, for your reading and files,"—Is that it?

Q. Well, it is true, is it not, that Plaintiff's Exhibits 14-c, 14-g, 14-f and Plaintiff's Exhibit 18-are Rex price lists, are they not?

A. Yes; but don't forget it mentions there just what I read.

Q. Well, as the Court says, these papers speak for themselves——

A. Yes.

Q. —and the reading matter is there, and the Court will see it. Now, the prices given on these price lists vary somewhat, do they not? The point of the question is this, Mr. Dusenberry: You had different prices to different classes of trade. Is that true?

A. Yes.

Q. That is, you had prices that were available to garages and service stations, I presume?

[fol. 115] A. It is all given in there (indicating exhibits referred to).

Q. Well, Plaintiff's Exhibit 14-a states that prices are for special state distributors. Is that correct?

A. That is what it says right there, yes—"The following is a schedule of the special state distributors' price which we are pleased to quote you."

Q. And the price list of Plaintiff's Exhibit 14-f is for what class of trade?

A. This is a copy of a circular letter on this side (indicating), "which we are mailing to state distributors, jobbers, dealers and salesmen."

Q. Then the prices were for that class of purchasers. Is that correct?

A. Yes.

Q. Now, for what class of purchasers were the prices given in Plaintiff's Exhibit 18?

A. For the distributor or salesman.

Q. And not for garage or service stations to whom you sold. Is this correct?

A. This (indicating)?

Q. Plaintiff's Exhibit 18, yes.

A. Yes.

Q. That is, the prices given on Plaintiff's Exhibit 18, price list were for salesmen and distributors, and not for garages and service stations. Is that correct?

A. I am not sure on that. This may be on our suggested price list for his selling. I will have to go back and look it up, to make sure.

Q. Will you do that, and make sure?

A. May I have a copy of one of those?

[fol. 116] Q. Yes. Mr. Dusenberry, in the circular letter Plaintiff's Exhibit 14-b there is a paragraph, about the middle of the page, with the heading, "The Rex Duplex Fitting is a Legitimate Product. The question of the possible patent infringement has received our very careful attention. The Rex Duplex fitting was designed with full knowledge of the patent litigation on pressure grease fittings, and with the express purpose of avoiding infringement on all patents. We are advised by legal counsel that we do not infringe, therefore we undertake to indemnify all dealers handling the Rex Duplex fitting against any liability whatsoever for patent infringement. You can purchase these fittings entirely without concern as to the possibility of any litigation, for we are prepared financially and legally to defend any suit if instituted by anyone to attempt to restrain the use of the Rex Duplex fittings." Now, did you mean by that language, to indemnify all dealers handling the Rex compressor and the Rex fitting, when used with an Alemite compressor and coupler outfit, such as exemplified here in Plaintiff's Exhibits 5 and 6?

A. My understand of that is that it is relative to this (indicating one of fittings of Plaintiff's Exhibit 17) being taken up, with the question of them having—any infringement on this (indicating same fitting).

Q. Mr. Dusenberry, when you say "this," and hold something up, it doesn't show on the record what you are talking about. You have picked up one of the fittings of Plaintiff's Exhibit 17, have you not, a Rex fitting?

[fol. 117] A. Yes.

Q. Now, will you tell us again what you were to do, when you agreed to "indemnify all dealers handling the Rex Duplex fitting against all liability whatsoever for patent infringement"?

A. The question on this—We contended this did not infringe any other fitting (indicating one of fittings of Exhibit 17).

Q. You meant, indemnify dealers or users who might be sued for the use of Rex Duplex fittings like Plaintiff's Exhibit 17, when used in conjunction with plaintiff's Alemite compressor and coupler outfits like Plaintiff's Exhibits 5 and 6?

A. No such thought about the use of the Alemite. If this (indicating Rex fitting, Exhibit 17) relative to infringing on another fitting. That question had been asked of us, and that is the reason why.

Q. Well, as a matter of fact, Mr. Dusenberry, you don't know exactly what that sentence meant. Is that not true?

A. Why, it states right there—to the best of my ability, right there (indicating exhibit).

Q. As you stated here, you undertook to "indemnify all dealers handling Rex Duplex fitting against any liability whatsoever against patent infringement"?

A. Just as I said there a while ago.

Q. That is, you agreed to indemnify dealers handling the Rex Duplex fittings, regardless of the use to which those fittings were put?

A. No, no.

Q. That is what this letter says, does it not?

[fol. 118] A. My understanding was—it says: "The question of the possibility of patent infringement has received our very careful attention. The Rex Duplex fitting was designed with full knowledge of the patent litigation on the pressure grease fitting, and with the express purpose to avoid infringement on all patents. We are advised by legal counsel that we do not infringe, therefore we undertake to indemnify all dealers handling the Rex Duplex fit-

ting against any liability whatsoever on patent infringement. You can therefore purchase these fittings entirely without concern as to the possibility of any litigation, for we are prepared financially and legally to defend any suit instituted by anyone attempting to restrain the use of the Rex Duplex fitting." It doesn't say if used with Alemite.

Q. Well, whatever it means, you stand by the agreement contained in this letter?

A. To the best of my ability.

Q. Did you prepare this letter of Plaintiff's Exhibit 14-b, or did a lawyer prepare it for you?

A. That was prepared by others?

Q. By whom?

A. By others.

Q. What do you mean, "by others"?

A. I understood it was prepared under the direction of our counsel.

Q. Mr. Clarke?

A. I don't know, at that time who was there, no.

Q. Mr. Dusenberry, this is a letter that was signed by you?

A. Yes.

[fol. 119] Q. You should be able to tell us——

A. I will have to refer you to Mr. Van Kirk.

Q. Mr. Van Kirk is one of your counsel here?

A. Yes.

Q. The letter was prepared under his direction, was it?

A. As far as I know.

Q. Well, Mr. Dusenberry, this letter bears your initials?

A. Yes.

Q. And bears your signature?

A. Yes—Let me see. (Letter handed to witness). Typewritten; not my signature to it.

Q. But you don't disclaim the letter, do you?

A. No, I don't disclaim it.

Q. As I understand your testimony, the letter was written by your counsel, Mr. Van Kirk, and turned over to you. Is that correct?

A. That part of it here (indicating).

Q. That is, the paragraph——

A. Just read there.

Q. —having the heading "The Rex Duplex Fitting is a Legitimate Product" was prepared by Mr. Van Kirk. Is that correct?

A. I am not sure on that; but I will have to refer you to him. I took it as such from our counsel.

Q. Do you know where you saw that paragraph first? Where did you get it? You said you prepared the letter, or participated in its preparation.

A. Why, we had it there at the office after going over it, and this was——

[fol. 120] Q. You don't know whether it blew in the window or whether someone handed it to you, do you?

A. Well, I know that it was given to us there in the office.

Q. By Mr. Rogers?

A. There were several of us together; I can't say just which one.

Q. Well, Mr. Rogers was active in the preparation of these letters, Plaintiff's Exhibit 14. Isn't that correct?

A. Well, his name is on it, yes; practically, I think it is the same as this letter here (indicating).

Q. Here is a letter, for example, Plaintiff's Exhibit 14-e; that bears your initials as being the dictator of the letter, and it also bears Mr. Rogers' typewritten signature. Isn't that correct?

A. Yes. This (indicating), of course, I took from an original copy.

Q. Now you have pointed to Plaintiff's Exhibit 14-d, and stated that you took the substance of the letter from the letter of Plaintiff's Exhibit 14-b. Is that correct? (Handing said two letters to witness.)

A. (Witness compares letters handed to him.) Which preceded the other, I can't tell now.

Q. Well, is it your present idea that Mr. Rogers cooperated with you in the preparation of this letter of 14-d?

A. Yes; or whether I cooperated with him——

Q. Is Mr. Rogers here now?

A. I don't see him.

Q. He has been here, sitting in the last row of the court [fol. 121] room, has he not, part of the time during the trial?

A. I saw him once or twice yesterday.

Q. Now, in this letter of Plaintiff's Exhibit 14-d you refer to the question of infringement of patents, do you not?

A. "Relative to the legality of the patents pending on Rex Duplex products".

Q. This letter was mailed to state distributors, jobbers, dealers, and salesmen, I presume, in accordance with the heading on the letter?

A. Yes.

Q. In this letter, you say, "Gentlemen: Relative to the legality of patents pending on the Rex Duplex products you are advised that our attorneys have carefully investigated all questions of the possible infringement, and assure us that we are not infringing. We therefore guarantee to protect you against any liability whatever for patent infringement." Did you have in mind there defending a dealer who sold Rex Duplex fittings for use with Alemite compressor and coupler outfits like Plaintiff's Exhibits 5 and 6?

A. I will have to repeat the question as I answered before (indicating Plaintiff's Exhibit 17 fitting)—that my understanding was relative to infringing—this patent infringing against any other fitting.

Q. Now, you are pointing to a device and not to a patent, are you not, Mr. Dusenberry?

A. Well, this is what we were speaking about (indicating fitting of Plaintiff's Exhibit No. 17).

Q. Well, see if we cannot make it clear for the record, will you, please? Did you not mean by this language that [fol. 122] you would protect a dealer who sold Rex Duplex fittings for use with an Alemite compressor and coupler outfit of Plaintiff's Exhibits 5 and 6?

A. I will have to repeat again: The question of the infringement of this fitting (of Plaintiff's Exhibit 17) against any other fitting, of our fitting against any other fitting; not the use of it in connection with another equipment. That is my understanding.

The Court:

This witness has reiterated his answer several times.

The Witness:

Yes, your Honor.

The Court:

I think you are proceeding too far on this matter. We do not want to spend all day going over just this proposition

again and again. You have the witness's answer several times, and now fairly and squarely.

Q. Mr. Dusenberry, are you familiar with drawings at all?

A. Very little; as I told you yesterday, I am not a technical man.

Q. Do you know enough about drawings to say whether this is a correct representation of the defendants' Rex fitting and connector (handing drawings to witness)?

A. I am not; but to the extent that I understand, there are things there that look like it to me, but I couldn't say positive.

[fol. 123] Q. That is, although you have been selling this equipment for two years, you don't know enough about it to say whether this drawing is a correct representation of the fitting that you have been selling (indicating drawing Defendants' Exhibit "B"). Is that correct?

A. I wouldn't say I didn't know anything about this (indicating fitting); but I don't know enough about that drawing to positively say that it is.

Q. And still you undertook to advise dealers, salesmen and others on questions of patent infringement. Is that true?

A. Through our counsel.

Mr. Ahlberg:

That is all.

Redirect examination.

Mr. Clarke:

Q. Mr. Dusenberry, you have been asked about various systems of lubricating. Do you know what system the Ford Motor Company uses?

A. I think they have one of their own, similar to what is called Zerk. That is my impression.

Q. In any event, it is not the Alemite system, is it?

A. Not to my knowledge—I don't think so; it is my understanding it is not.

Mr. Clarke:

That is all.

[fol. 124] Recross-examination.

Mr. Ahlberg:

Q. Now, Mr. Dusenberry, by "the Zerk system" you mean fittings like this group that I now show you (handing same to witness). Isn't that correct?

A. Well, what I saw of the Ford, if my memory serves me right, is something similar to this (indicating one of the fittings), with a hole straight through. This (indicating) seems to have a ball, I believe——

Q. Let me call your particular attention to two of this group of about fifty or seventy-five fittings (handing two fittings to witness).

A. So far as I can recognize, this (indicating) is my understanding, that is near like what Ford uses.

Q. Well, you are right. This is the type of Zerk fitting that Ford employs as standard equipment on Ford cars. Now, these fittings are used in conjunction with a Zerk push type compressor of the kind I have here in my hand (indicating). Isn't that true?

A. I don't know; I never used it.

Q. Do you know how the Zerk fittings are used?

A. If I remember rightly—I never used any—they have an adapter that sits right over—Is that not an adapter (indicating)?—a plain metal adapter that sits right over. Is that the way?

Q. The way this works is that these fittings are installed on the automobile, and the user who wishes to lubricate his car applies the compressor to the end of the fitting, and pushes, thereby forcing grease into the fitting and into the bearing. That is your understanding, isn't it?

[fol. 125] A. So far as I know; I never had any experience, but that is, as far as I know.

Q. You are strictly an office man, are you, Mr. Dusenberry?

A. Pretty much.

Q. You don't call on garages and service stations yourself?

A. No, no; I am the poorest kind of a demonstrator.

Q. The Rex Duplex Compressor and coupler outfit, Plaintiff's Exhibit 16, is not adapted and intended for use with these Zerk fittings, is it?

A. It is not adapted or intended for any other fitting but our own.

Mr. Ahlberg:

I offer in evidence, as Plaintiff's Exhibit No. 43, the Zerk fitting referred to by the witness.

The Witness:

Mr. Ahlberg, that fitting in that Exhibit 43—now, with that operation, I can see that much: would you ever be able to grease any machine with that fitting in this coupler (indicating)?

Mr. Ahlberg:

Well, Mr. Dusenberry, I could answer, but I guess you had better let your lawyer answer your questions.

The Witness:

The reason why I asked that: Is that thing——

The Court:

(To witness.) Mr. Dusenberry, don't carry on the argu-[fol. 126] ment with counsel. He is asking you questions, and not you of him.

The Witness:

Well, just what little common sense I have would show me that; that is all.

Mr. Ahlberg:

That is all.

Redirect examination.

Mr. Clarke:

Q. About this Zerk fitting, it has a spring-pressed valve and ball in it, hasn't it?

A. Why, I have seen some with, and some without.

Q. As a matter of fact, the Ford Company uses it without, doesn't it?

A. All that I have seen, yes.

Q. And the grease is inserted through that valve opening under pressure of the gun?

A. Yes.

Q. Which is applied directly against the end of the fitting, isn't it?

A. Yes; it most needs that pressure, otherwise there would be no grease go in it.

Q. And taking the gun away, the valve recedes and closes the opening against escape?

A. Those that have a ball in them with a spring, yes; if they are a straight hole, how is it going to close?

Q. Well, it is a fact, as I have just stated, is it: on taking the terminal of the gun or pump away from the fitting, this valve closes the opening and prevents outward escape of the inserted lubricant?

[fol. 127] A. Yes; if they have the valve-ball opening, yes.

Q. Now, do you know whether or not the Ford Company makes its own lubricating equipment of that kind?

A. I do not. I believe they do. I think I heard to that effect, but I am not positive.

Q. You are not sure yourself?

A. No, I am not.

Q. In any event, it does not use any Alemite coupler in connection with that Zerk fitting, does it?

A. That I don't know.

Q. It couldn't use it, could it?

A. It depends on what you mean by "Alemite coupler." You mean this right here (indicating one of exhibits)? I can't see how they could use that coupler there on any Zerk fitting, any more than they could use this here (indicating) on any Zerk fitting.

Q. Well, in any event, the terminal of the gun used to put grease through a Zerk fitting is not the same as the terminal on the end of the Alemite gun. That is right, isn't it?

A. Yes, that fitting there (indicating).

Q. That doesn't mean anything, to point to something.

Mr. Ahlberg:

Mr. Clarke, I have no objection to your offering in evidence the Zerk gun, so the Court will know, when he comes to examine the record, what you are talking about here.

The Witness:

The reason I answered that, I believe this (indicating) is one of the Alemite products, is it not?

[fol. 128] Mr. Ahlberg:

That is right.

The Witness:

Therefore, if I said "yes", to use this (indicating), I cannot, for I never tried it; but I believe that is what that is for, and I believe it will function with Ford as well as their own.

Q. In giving your last answer, you have held in your hand the specimen of the gun shown you by plaintiff's counsel, have you not?

A. Yes.

Q. Now, just what is that, if you know?

A. From his own acknowledgment of it, it is an Alemite compressor, or gun—as we call it—grease gun.

Mr. Clarke:

It is perfectly all right, if you want to offer that, Mr. Ahlberg; I don't care to. That is all.

Recross-examination.

Mr. Ahlberg:

Q. Mr. Dusenberry, you seem to know a little more about this Zerk system when Mr. Clarke asks you these questions. You referred to this device of Plaintiff's Exhibit 43 as being one without a ball, did you not?

A. Let me see it again, please? (Exhibit 43 handed to witness). Yes, as far as I can see, that has a clear hole through it.

Q. Now, this one that I hand you has a ball and a spring inside, has it not?

[fol. 129] A. Yes.

Q. And that is the kind that you referred to in response to Mr. Clarke's questions about Zerk fittings having a ball valve on the inside?

A. The question he asked relative to the closing of it after,—it would have to be that kind, because the pressure can't be held in that.

Q. Well, that is the question: This is the type of fitting you referred to as having a ball and spring on the inside of the Zerk fitting. Is that right?

A. Any Zerk fitting that has that in it—necessarily whether it is that or not, I don't know.

Q. Well, let me ask you again, Mr. Dusenberry: Is this the type of fitting you referred to as having a ball and spring on the inside, when you answered one of Mr. Clarke's questions?

A. It is a type; but by saying that I don't mean absolutely Alemite type of Zerk fitting.

Q. Well, do you know of anyone else that makes Zerk fittings?

A. I don't know—indeed, I don't, for I am not acquainted well enough with the Zerk product.

Q. Now, let me ask you again: Is this the type of fitting you had reference to in answering Mr. Clarke's questions about——

A. Valve closing?

Q. Yes.

A. That is the type. I say that, not because——

Q. Now, never mind the explanation, Mr. Dusenberry. This is the type, is it not?

A. That conforms to the type that I had reference to [fol. 130] when I answered his questions.

Q. Thank you.

Mr. Ahlberg:

I offer this fitting in evidence as Plaintiff's Exhibit No. 44.

Testimony of J. Roy Van Kirk

J. Roy Van Kirk, a witness for defendant, testified he is a member of the Pittsburgh bar. That he has been attorney for Rex Duplex Fitting Sales Company and Rex Duplex Fitting Company for a couple of years or so.

Describing a certain meeting as to which he had cross examined the plaintiff's witness Kidd as to business methods, he said:

Last year, 1932—the company decided that they would try to put on a sort of a sales campaign, and they rounded up a number of salesmen—I think, as Mr. Kidd said, there were about twenty-five there that night, if my recollection is correct—among whom was Mr. Kidd. We discussed the equipment, and I had discussed the matter before with the

law firm of Byrnes, Stebbins, Parmelee & Blenko, and I had stated specifically that night that, while in the opinion of counsel it would not infringe to sell the compressor with the coupler, in view of the appeal to the United States Supreme Court allowed by the Supreme Court in the Adams Grease Gun case, which was subsequently withdrawn, that they couldn't sell the fittings direct, but would have to sell, if [fol. 131] they sold fittings, in combination—that is, by "combination" I mean the compressor—the coupler, with the fitting; in other words, sell the two together. Those were the instructions that I issued that night, to Mr. Kidd among others, and he was present and heard it.

Mr. Ahlberg:

I move to strike that,—that is, that Mr. Kidd heard it. I am sure this witness doesn't know whether Mr. Kidd heard the instruction or not.

The Court:

Well, of course, if Mr. Kidd gave any indication that he heard it, or said anything at that time that indicated that he heard it, the witness could answer; but otherwise, he could only testify to what he said,—unless the witness is now able to state that Mr. Kidd made some remark indicating that he heard what was said.

The Witness:

I will state, in your answer to your Honor's question, that on two different other occasions I discussed the matter with Mr. Kidd, relative to the twenty-five salesmen that Mr. Kidd talked about, that never went out. Mr. Kidd himself was practically the only salesman around the City of Pittsburgh, and he bought—I know of my own knowledge he bought this equipment and took it out to his home, and sold it principally from his home. I know that of my own knowledge. This meeting occurred in February, 1932 in the office of [fol. 132] the Rex Duplex Fitting Sales Company, a good sized office and there was no reason why everybody in the room could not hear what he said. Numerous questions were asked by various persons and Kidd was sitting right up in the front row. As to the Adams Grease Gun Case witness says he knows the appeal allowed by the Supreme Court was

withdrawn on behalf of the Adams Grease Gun Company who paid the costs. Witness said further, I know that they litigated Alemite for about five or six years. That is all I can tell you, although I have a letter from counsel for the Adams Grease Gun Company giving as a reason that Adams is now licensed by Alemite. After this suit was brought Kidd came into Van Kirk's office with Dusenberry and asked him to enter appearance on his behalf and have present patent counsel do so also, which was done. Witness says further:

Mr. Kidd came into my office on two different occasions after that and discussed this question with me. I made notes, and my recollection is I submitted them to you, Mr. Clarke, for the purpose of drawing an affidavit in this case, —I am not positive about that; but the next thing I heard, while the relation of counsel existed between Mr. Kidd and ourselves, the Alemite Corporation had been out to Mr. Kidd's house, through a representative, and procured a statement and an affidavit from Mr. Kidd as to his—well, the affidavit that is here in court.

I think the day before the preliminary injunction hearing I came into court and filed a petition withdrawing our appearance for Kidd, and he never explained to me why he [fol. 133] changed his relationship.

On cross examination Van Kirk says he does not practice patent law, verified the meeting of salemen in February, 1932, but that he did not say they were engaged in the selling of Rex Duplex Fitting equipment like Plaintiff's Exhibits 16 and 17. About twenty-five were there who contemplated taking up the sale of the equipment. Only Kidd and Dusenberry were salesmen, the rest prospective. If Exhibits 16 and 17 are Rex Duplex Equipment I gave these men some instructions about their sale.

I told them that in the opinion of counsel that had been rendered me we could sell the compressor with the coupler individually, but the fittings, if they sold fittings, they should sell the fittings and the coupler in combination; that is, they should sell them together; in other words-, but in the complete unit, so that it could be used.

Q. Now, your instructions to these men were that this Rex equipment of Plaintiff's Exhibit 16 might be sold separately. Is that correct?

A. That is what I told them, sir.

Q. Now, with reference to the fittings of Plaintiff's Exhibit 17, your instructions were that they were to be sold only to purchasers of Rex compressor and coupler outfits of Plaintiff's Exhibit 16?

A. Yes, sir.

Q. Did you instruct these men not to sell the fittings to garages, service stations, dealers and others, unless such dealer, garage or service station was already possessed of a Rex compressor outfit?

[fol. 134] A. Yes; or sold them a compressor outfit.

Q. Did you have an opinion from some patent lawyer?

A. I had, sir.

Q. Was it a written opinion?

A. No, it was a verbal opinion.

Q. Did you bring with you to the meeting a copy of the Gullborg patent?

A. Oh, I had a copy of it in the office; I don't think I had it in the meeting.

Q. So that you undertook to advise these men what would or what would not constitute patent infringement in the sale of this Rex equipment, without even having a copy of the Gullborg patent before you?

A. Well, I don't know what that would have to do with it, but I didn't have a copy of the Gullborg patent. I don't think that that would be material as to advising anybody as to the use of the equipment.

Q. Well, do you know what claims 1, 2, 3, 4 and 8 of the Gullborg patent are?

A. No, I do not.

Q. It would be necessary, wouldn't it, for anyone to advise on the question of patent infringement, to at least look at the claim that was involved?

A. Oh, I had read them, but as I say, I am not a patent lawyer; I was taking patent attorneys' advice on the matter.

Q. So that, while you didn't know anything about it yourself, you undertook to instruct these twenty-five or thirty men what might or might not be done?

A. I didn't say—I said there were around twenty-five men.

[fol. 135] Q. All right; around twenty-five men.

A. And I was advising them on advice given to me.

Q. And that was second-hand information. Your informant wasn't present at the meeting, was he?

A. He was not.

Q. Were any written instructions issued by you then or at any time with reference to his question——

A. I never gave any written instructions. I had an opinion of the thing, but I never gave any.

Q. Did you write the letters of Plaintiff's Exhibit 14-b and 14-d, or any part of them?

A. I did not.

Q. Have you seen them before (handing same to witness)?

A. I never saw this (indicating)—I guess it is Exhibit "a" of 14—I never saw that before. I did see this circular at one time, yes, sir.

Q. Did you participate in the preparation of that circular?

A. I said twice before, Mr. Ahlberg, that I did not.

Q. You were here a few moments ago when Mr. Dusenberry testified that that paragraph of the letter Plaintiff's Exhibit 14-b was prepared by you and handed to him?

A. I beg your pardon; Mr. Dusenberry said no such thing. He said he thought maybe it was prepared by me, but he wasn't sure.

Q. Well, you deny you did it?

A. I deny I prepared it, yes, sir.

[fol. 136] Q. You referred to the opinion of the Second Circuit Court of Appeals in the Adams Grease Gun case?

A. Yes, sir.

Q. Do you know what the Court held in that case?

A. I know what the Court held.

Q. What did it hold?

A. It held that the use of an Adams fitting was an infringement of the patent, and also held that the coupler that Adams had, which was a snap-on coupler, was an infringement of the patent.

Q. That is, the Court of Appeals for the Second Circuit sustained the plaintiff's contentions, the same as are being advanced in this case. Is that true?

A. No, I don't say it is the same as being advanced in this case. And I also know that the Supreme Court of the United States, on the question of monopoly and on one or two other things of the Alemite Corporation, allowed the appeal, and that——

Q. Now, just a minute, Mr. Van Kirk. When did the Supreme Court allow an appeal in the Adams Grease Gun case?

A. To my recollection, it was about last—well, it was prior to the time, or around about the time that you brought this action against the Rex Duplex; and we felt then that the matter would all be threshed out, and we would know where we were, in the Supreme Court. The matter was also up in the case that Mr. Clarke mentioned, in which Judge Schoonmaker,—the Erie case—Judge Schoonmaker allowed [fol. 137] an amendment there, and as I recall, in his opinion he said that there were certain matters that would be threshed out in the United States Supreme Court, since the certiorari was allowed.

Q. Now, Mr. Van Kirk, when you refer to the opinion of the Second Circuit Court of Appeals in the Adams Grease Gun case, do you refer to this opinion of which I hand you a copy, reported in 52 Federal 2d, 36 (handing same to witness)?

A. It is in addition to the one in 54 Federal 2d.

Q. Just a minute. This is the Second Circuit opinion in 52 Federal 2d, 36?

A. Well, I don't know.

Q. Well, look at it (handing same to witness).

A. It purports to be, Mr. Ahlberg, but I won't say that it is. The book speaks for itself, the bound volume.

Q. Well, you know that the opinion of the Second Circuit Court of Appeals that you have in mind is reported in 52 Federal 2d, 36. Is that correct?

A. I don't know the page, but I know it is in 52 Federal 2d; I believe 36 is right; I believe that is right.

Q. Now, it was a petition for certiorari that was granted by the Supreme Court in the Adams case, rather than an appeal, was it not?

A. That is right.

Q. You testified that the certiorari granted by the Supreme Court was denied by the Adams Grease Gun Company. Is that right?

A. Was denied?

[fol. 138] Q. Was withdrawn.

A. I said it was withdrawn, yes, on petition of counsel for the Adams Grease Gun Corporation.

Mr. Ahlberg:

That is all.

Mr. Clarke:

I would like to be informed, if your Honor please, at this stage, by counsel for plaintiff just what claims are to be relied on. That has not yet been stated.

The Court:

I noticed that.

Mr. Ahlberg:

Plaintiff relies on Claims 1, 2, 3, 4, 8, 14 and 15 of the Gullborg patent in suit.

Testimony of C. L. W. Trinks

C. L. W. Trinks, a witness for defendant, testified he is a professor of mechanical engineering at the Carnegie Institute of Technology of Pittsburgh and a consulting engineer, and has so been engaged and in mechanical pursuits since he graduated in 1897. Professor Trinks has been before the court before, has had a great deal of contact with patent litigation and has served as patent expert for the American Window Glass Company, Bethlehem Steel Company, Donner Steel Company, and quite a number of others. A part of his work at the Carnegie Institute is with lubricating [fol. 139] systems for applying lubricants for parts to be greased or oiled and to teach lubrication. He has known of the practice of forcing stiff lubricants, as grease, into concealed or isolated chambers since he went to school, from '93 to '97, and says:

Of course, before that time I was not interested in it, but at that time we had grease cups with springs on top, that is to say, we had grease cups similar to those which were placed in evidence here—I have forgotten the exhibit number, but they had on top between the lid and the grease a spring-pressed piston which would gradually force the grease into the concealed cavity.

Q. Were check valves of any kind used to retain the grease, once it was forced in, in any construction familiar to you?

A. Only on those which I have seen in patent descriptions. From my own recollection, I cannot recollect any in the early days.

Q. A check valve, incidentally, is a very common expedient for holding and retaining flowing liquids or fluids?

A. Yes. I would like to qualify my answer somewhat, by stating why they were not used. In those days we put the grease cup directly on the element to be lubricated, and therefore, if grease was once forced in, it would stay in; but if you use a long tube between the element to be lubricated and the grease cup, then, if you unscrew the grease cup, the grease would come back, because the pressure in the tube enlarges the tube, and as soon as you remove the pressure the pipe contracts again and forces the grease [fol. 140] back. Therefore, check valves would become necessary, just as soon as you use a long tube or pipe through which to force the grease or the oil.

Q. And you personally know or recollect instances of that kind in physical existence and operation, in your own experience?

A. Yes; not before 1921, though.

Q. Now, have you examined and do you understand the construction and manner of operation of the subject matter of patent 1,307,734, to Gullborg, on June 24, 1919?

Mr. Ahlberg:

Now, if your Honor please, I would like to interpose an objection to the present question, and to the further examination of this witness. It is apparent that the witness is being called as an expert witness. The Courts have held frequently that where we have an unusually involved mechanism, or scientific devices, or things that the Court is unable to understand, it is permissible to call an expert; but the patent here, and equipment involved, is exceedingly simple. The province of an expert is to explain ambiguities, and patents and equipment that the Court is not able to understand. I move therefore that the question be stricken, and that the further testimony of this witness be discontinued.

Mr. Clarke:

I scarcely appreciate the force of that objection, if your Honor please. It is quite customary to call experts, men

of mechanical and scientific ability—not necessarily to ex-
[fol. 141] plain what is obvious, and easily understood, and readable in the patent itself, but particularly, as in a case of this kind, where physical embodiments have been introduced of structures alleged to infringe the claims of this particular patent, to discuss differences if they exist, discuss similarities if they exist. It has certainly always been thought to be a matter of assistance to the Court, and especially where opposite views are entertained by opposing parties in litigation of this kind. And it seems to me that the objection at this stage is not well taken, and it should be overruled.

The Court:

What is your position, Mr. Clarke, with reference to the patents in suit? Do you concede that the claims in suit are valid?

Mr. Clarke:

We are not contesting the validity, your Honor, as I said at the outset.

The Court:

That is what I understood—that you were not contesting the validity.

Mr. Clarke:

No, sir. Our defense is non-infringement.

The Court:

What do you propose to ask of this expert witness then?

[fol. 142] Mr. Clarke:

I am proposing to ask him to identify, if he can, common subject matter expressed in the patent, inclusive of the drawings, the specifications and the claims, without asking the witness to apply claims, of course—That is your Honor's function. I am proposing to ask him to point out and support, if he can, defendant's position that there is not present in the defendant's construction the subject matter of these claims. We are taking it for granted and presume, although it may be a violent presumption, that plain-

tiff's attitude is the usual one of resting on the claims declared on, which they have just stated to be Claims 1 to 4 inclusive, 8, 14 and 15.

The Court:

Well, as I understood counsel in the opening statement, those are all combination claims, and he doesn't charge you with being a direct infringer of those combination claims, but being a contributing infringer by supplying to someone else some of the elements that enter into the combination, with knowledge that they are to be used for the purpose of being combined with other elements, which will infringe the patents in suit. Is that correct?

Mr. Ahlberg:

Yes: your Honor states it better than I could have stated it myself.

[fol. 143] Mr. Clarke:

That is exactly as I sensed their attitude, and it is a very cute position to take. We are prepared to meet that situation.

The Court:

I am just wondering, with that situation, whether you have any real thing here to get the opinion of an expert upon. Isn't that merely a question of fact, as to the fact of your sale to persons who intend to use that in connection with their combination structure?

Mr. Clarke:

Yes. I have gone just as far as that, and there we stopped. We say that under either condition, the combination of our fitting with their pump or gun and its coupling——

The Court:

On the mechanical device and its use, I can conceive that the opinion of Prof. Trinks would be very valuable to the Court, if we have to construe and determine what a machine is doing or a mechanical device is accomplishing; but, as I understand the charge here, being merely a charge that you

are a contributing infringer in the selling of a certain device, is the mechanical operation of the combination as a whole, or the several elements that go into it, of any particular importance, so far as their mechanical structure or oper-
[fol. 144] ation are concerned?

Mr. Clarke:

Surely your Honor would not waive out of the condition——

The Court:

Now, as I understand, it is charged that you sell these fittings to persons that intend to use them with the Alemite structure, in combination?

Mr. Clarke:

Yes, sir.

The Court:

And there is no charge that these particular elements when used with the Rex Duplex high pressure gun will infringe the plaintiff's patent. There is no such charge here, as I understand it?

Mr. Clarke:

No; we are beyond that point. We meet your Honor's position on it, and we so anticipate it. And we propose to meet the charge that the combination of our fitting with their gun and their coupler——

The Court:

Of course, if you wanted to show that this fitting would not work into their gun, or their lubricating combination, I think an opinion of an expert as to whether or not that was a workable combination, using your fitting in their structure,—we could very properly take the opinion of Prof. Trinks as to that.

[fol. 145] Mr. Clarke:

I don't have to go that far, your Honor. It does interfit, it will work with it. But we are standing on the language

of these claims. Your Honor only has to read this disclaimer in this patent to appreciate that the scope of this invention, if it is one—which we are not questioning—is certainly not as broad as that disclaimer; it is certainly not as broad as the condition which would have to exist for your Honor to take that position, I think. We say, and we have not yet abandoned the position in which we continue to say, that the combination of the fitting with their pressure gun and its coupling does not fall under any claim declared on. We say also that the combination——

The Court:

That is, you take the position that you can sell this fitting to a purchaser who you know intends to put it into an Alemite combination, without infringing the patent in suit?

Mr. Clarke:

That is the position we have tried to carefully avoid bringing into existence, the selling of our fittings to the users of Alemite equipment and for connection with their gun, because it would raise the very trouble that is existing here. We do say, however, that on a pure question of infringement—and I think that is that vital question in this case; this action is not brought for unfair competition, although that seems to be the substance of the evidence so [fol. 146] for advanced—We say that the combination—and I repeat it again—of our fitting as we make it (and your Honor has not yet had any clear discussion of what that fitting is, as made) with the patented Alemite gun, compressor and its coupler, as expressed in the claims declared on in this suit, is not an infringement. Now, we do take that attitude. We say further that the combination of the defendant's gun, compressor and coupler with the Alemite fitting is not an infringement.

The Court:

With that situation, probably we have a situation here where the opinion of Prof. Trinks might be of value.

Mr. Clarke:

It seems so to me; extremely.

The Court:

We will hear you.

Mr. Ahlberg:

Merely on the question of whether this defendant's compressor and coupler outfit of Plaintiff's Exhibit 16 is usable in conjunction with Alemite pin fittings of Plaintiff's Exhibit 4?

Mr. Clarke:

I didn't get that.

Mr. Ahlberg:

As I understood it, it is the Court's present idea to let Prof. Trinks testify with reference to the defendant's sale [fol. 147] of compressor and coupler outfits of Plaintiff's Exhibit 16, for use in conjunction with plaintiff's Alemite fittings——

The Court:

I think the thing is broader than that. The question is whether or not these fittings when brought into combination with your structure will infringe your combination claims. Am I right?

Mr. Clarke:

That is the position we must meet. If we cannot meet that, our case is different from what we think it is. I don't know whether your Honor has read this patent carefully——

The Court:

No, I have not read it carefully.

Mr. Clarke:

(Continuing)—or has read that disclaimer which they had to enter on Claim 12. That claim is broad enough, if your Honor please, to cover what the plaintiff is insisting on in this case. No other claim in the patent is sufficiently broad, we say.

Mr. Ahlberg:

I think we get back to the proposition of whether this is an extremely simple patent case and whether simple structures are involved, or whether——

The Court:

Well, we will hear Prof. Trink's testimony with reference to this matter. Go ahead.

[fol. 148] Mr. Ahlberg:

May I have an exception, your Honor.

The Court:

We note you an exception.

Q. (Question read as follows: Now, have you examined and do you understand the construction and manner of operation of the subject matter of patent 1,307,734, to Gullborg, on June 24, 1919?)

A. I have read it about ten times, and I thoroughly understand it.

Q. Prof. Trinks, there is of record in this case an affidavit of G. S. Rogers, with which is filed a photostat or blueprint drawing marked Exhibit 1. I show you that drawing, and ask you what that means, in your opinion (handing drawing to witness). In that connection, I show you also Defendants' Exhibit "A", which you may understand to be a physical embodiment of the defendants' construction in this case.

A. The drawing marked Exhibit 1 in Exhibit "C" and "D" (the Rogers affidavit) is a reproduction——

Mr. Ahlberg:

Just a minute. I wonder if I may interrupt, for the purpose of the record? Now, Mr. Clarke, you have in evidence a copy of that drawing, which is marked as Defendants' Exhibit "B". Wouldn't it be better to use that than to use this duplicate copy?

Mr. Clarke:

Yes, we might simply identify it as the drawing appearing with the same affidavit.

[fol. 149] A. (Continuing.) There are two drawings.

Q. Well, Exhibit 1 is the one I want.

A. Drawing Exhibit 1 in the affidavit of G. S. Rogers: This is a sectional and external view of the Rex fitting of hose coupling.

Q. Incidentally, professor, this particular drawing is the same as the drawing marked Defendants' Exhibit "B" in this case, is it not (handing Exhibit "B" to witness)?

A. That is correct. And Defendants' Exhibit "A" is an enlarged scale reproduction of the Rex hose coupling, partly cut away, so that the interior construction may be observed and studied.

Q. And you understand this construction in relation to the particular drawing, and do you find it corresponds in every respect?

A. It corresponds in every respect. There may be slight differences in a few thousandths; but with those exceptions, that is correct.

Q. Referring to this drawing, Exhibit "B", what is the part marked b?

A. The part marked small b is a washer of a suitable elastic material, used for tightening.

Q. Do you find such washer in the physical specimen, Exhibit "A"?

A. There is such a washer in the Exhibit "A". However, there seems to be a difference, inasmuch as in the drawing the washer is wholly enclosed on three sides, whereas here (indicating physical specimen) it projects outside slightly.

[fol. 150] Mr. Ahlberg:

I wonder if the Court might look at this copy of the drawing, and have the professor refer to his own copy.

Mr. Clarke:

Certainly. (Handing copy of drawing to the Court.)

Q. Is this washer movable with relation to the portion on which it is mounted, or is it fixedly set?

A. It is fixed in the part in which it is mounted.

Q. There is then no possibility of any longitudinal movement of this washer, is there?

A. There is possibility of longitudinal movement of this washer with regard to the lower part of the fitting, but not

with regard to the part on which it is mounted; and with regard to the lower part of the fitting the movement is what I would call a helical movement, because as it is screwed down it has both translation and rotation, that is to say, longitudinal motion and rotary motion.

Q. And that is only for the purpose of bringing the connecting parts into close contact, is it not?

A. That is for the purpose of bringing the connecting parts into close contact, that is correct; and for sealing.

Q. What is the part marked capital C?

A. The part capital C is the outer housing of what I call the pump half of the coupling. I call the part which is connected to the hose the pump half of the coupling, and the part which leads to the part to be oiled the receiving half of [fol. 151] the coupling. This part C then is the outer housing of the pump half of the coupling.

Q. What is the construction of the part marked small c?

A. The part marked small c is the ordinary bayonet lock, that is to say, it has an aperture opening or a slot, which is partly longitudinal and partly transverse or circumferential.

Q. Is the transverse portion inclined or is it exactly at right angles with the longitudinal shoulder?

A. It is exactly circumferential; it has no inclination towards the circumferential line.

Q. So that, in connecting the bayonet joint portions, once the enclosing part C is rotated, there is no additional binding effect, is there?

A. I didn't understand your question.

Q. When the so-called cup fitting, as the term is used in this case, is inserted within the bayonet joint connection and then rotated, there is no additional longitudinal movement of the cup fitting, or its pins, in one direction or another, is there?

A. None except to take up a small clearance, which there must be; in order to get the pin in, the slot must be slightly wider; and that is the only one there can be.

Q. And is such bayonet joint construction a matter of common knowledge, in your experience?

A. Oh, yes; that was used before I was born.

Q. That is the same joint that has been used in the rifles of the Civil War, isn't it?

A. I don't know; I wasn't in that war.

[fol. 152] Q. Now, do you find in this bayonet joint any transverse portion of a slot inclined from the longitudinal portion thereof toward the outer end of the coupling member?

A. I do not; except the part where it enters. Of course, that is not meant. The part which is meant is, as I take it in the Gullborg patent, the part which in the Rex Duplex fitting is truly circumferential, and which I will mark on this drawing by the letter X. That is what I take to be meant in the Gullborg patent, the part which is inclined, and which is not inclined in the Rex structure.

Q. Do you find in this Rex structure any perforated sealing disc slidably mounted in an enlarged portion of the bore of any holding member?

A. I do not.

Q. Do you find in the construction any spring confined between the ends of a conduit and the disc, for urging the disc against the coupling member?

A. I do not. Of course there is a spring shown in this exhibit, and I will mark this spring with the letter Y, but this spring serves no such purpose. It is simply a lock washer, the name as we have on all nuts in automobiles, only instead of having only one turn, it has several turns. It is there solely for the purpose of keeping these two parts from jarring loose.

Q. Do you find any sealing disc whatever, of any kind, other than the thing you have called the washer, marked small b?

A. I do not.

Q. Do you find in this Rex construction any means provided for sealing joints between the coupling member, [fol. 153] and for removing excess lubricant from the adjacent ends thereof, when the coupling members are uncoupled?

Mr. Ahlberg:

I object to the question. All Mr. Clarke is doing is reading from the claim. It is the province of the Court to determine whether or not infringement is present in this case.

The Court:

That is true, of course. The Court has to perform that duty.

Mr. Ahlberg:

Well, all Mr. Clarke is doing is reading the claim and asking the witness if he finds——

The Court:

If he finds the elements there in the structure of the defendant. He may go ahead.

Q. (Question read.)

A. I find the first part, that is to say, I find means for sealing, namely, the washer b; but I find no means for removing excess lubricant. And no such means are necessary with the Rex construction, although in my opinion they are necessary with the Gullborg construction.

Q. You do find then such means present in the Gullborg construction?

A. I do.

Q. Please describe briefly what they consist of?

A. May I refer to the other drawing, Mr. Clarke?

[fol. 154] Q. Yes. You are referring now to the second sheet in the Rogers affidavit, which is presented as showing enlarged views of the Gullborg construction?

A. I do.

Q. And you may refer to that, if you desire.

A. I am now referring to a sheet marked Exhibit 2, which is part of the affidavit of Mr. G. S. Rogers, marked Exhibit "C" and "D". This sheet was prepared without my knowledge, and therefore I have taken the trouble to check it carefully with the drawings of patent 1,307,734, which is the Gullborg patent in suit. I have found that everything is correct, with the possible exception that the numeral 24 refers to a point somewhat lower down, in the patent—It refers to the same vertical line, but somewhat lower down, in the patent. Otherwise the drawing is just the same. I understand it was prepared because the figure numbered 5 of the Gullborg patent is so small that it is hard to see without a magnifying glass.

Referring now to the blueprint in question, I find in the Gullborg structure a washer marked 26, which is pressed against the receiving half of the coupling against its face, which receiving half is marked number 29, by the spring 27. In uncoupling the two halves after the grease gun has been used, it is necessary, on account of the inclination of

slot 23, shown on the righthand side, to bring them closer together. Bringing them closer together pushes an extra dose of grease out of the spring chamber, in which spring 27 rests, into the receiving half 29 of the coupling. Then when the pin 31 of the receiving half 29 has reached the [fol. 155] axial, the longitudinal portion of the slot, the two halves snap apart, and by that action the spring 27, resting against its upper abutment 28, pushes the washer 26 downwardly, thereby creating a slight vacuum in the chamber filled by the spring 27—or partially filled by the spring 27. That vacuum sucks off any oil or grease which might have escaped between the face, not marked here, of the receiving half of the coupling and the leather cup. As before mentioned, this device is very desirable in the Gullborg structure, and is unnecessary in the Rex structure, for the following reasons: In the Rex structure, shown on Defendants' Exhibit "B", the washer b can be pressed against the receiving half of the coupling with a great force, in such a manner that any dirt which is very likely to be on the face of the coupling is covered over by the yielding washer, and therefore no grease is likely to escape. In the Gullborg structure the spring 27 does not press uniformly against the bottom of the coupling. If we would take the Gullborg coupling apart, we can readily see that it does not press uniformly, but there is a space against which the spring exerts no pressure. If a piece of dirt lies on the face of the coupling at that place where that spring does not press, the grease will escape, and it is therefore very desirable to have some means which will afterwards pull that grease back which has escaped. I believe that answers your question.

Q. Now, in view of what you have just said, professor, I call your attention to the language in the specification appearing at line 8, page 2, as follows: "A perforated cup [fol. 156] leather or sealing disc 26 is slidably mounted in the annular portion 24 of the bore of the coupling and is urged against the shoulder 25 by means of a coiled spring 27." That description tallies and checks with the description and your understanding as you have given it, does it not?

A. Correct; it does.

Q. Can you reconcile that statement I have just read with this portion, beginning with line 69 of the same page: "When the coupling member 21 is then turned to permit

the pin 31 to slide in the longitudinal portion of the slot 22 the sealing disc 26 is moved toward the end of the coupling member 29 under the pressure of the spring 34''?

A. I believe that is a mistake. I should think that he meant spring 27, instead of 34. I believe that is a mistake in the patent.

Mr. Ahlberg:

Q. A mere typographical error, don't you think, professor?

A. I don't know whether it is, but it would be queer that he would make a typographical error in two places; because, if one of the two numerals were wrong, it might be a typographical error. But it is an error anyway. Who made it, I do not know.

Q. It is clear from the patent which spring is intended, isn't it, professor?

A. I think so; quite clear.

Mr. Clarke:

If your Honor please, in view of the witness's identification of the structure of the Gullborg patent, I now renew [fol. 157] my offer of Defendants' Exhibit "C", which was withdrawn.

The Court:

Yes; the other witness couldn't identify it. It may be admitted now.

Mr. Clarke:

Q. Referring further to the Gullborg patent, I observe, professor, that the pin 31 extends entirely through the cup fitting. Is that your understanding?

A. It is.

Q. How does that compare with the construction of the Rex device, as shown in the physical specimen and the drawing?

A. In the Rex fitting there are two pins, or lugs—whatever you want to call them; it doesn't make much difference—which do not extend all the way through. Of course, such pins have been used in bayonet locks from time immemorial; otherwise, you couldn't very well have a bayonet lock, unless you had something to push that pin on the side to engage with the slot and the corresponding other half.

Q. And in defendants' construction what, if any, advantage is there present, in so far as the absence of the middle portion of this pin is concerned?

A. Well, you can have different means for supporting the spring. Also, if the pin does not go all the way through, it would constitute a source of leakage,—if it doesn't go all the way through.

Q. I didn't get that.

A. It would constitute a source of leakage, because if it [fol. 158] didn't go all the way through, and was poorly fitted, the oil and grease would leak out.

Q. Would it also give any freer circulation of grease, by omitting the middle portion of the pin?

A. Yes, but that is not material.

Q. Do you find the spring between the ball valve resting against the pin in defendants' construction?

A. No. In the defendants' construction the spring which holds the ball shut does not rest against the pin, because it cannot; the pin doesn't pass through, and therefore it does not offer an abutment, and therefore the spring cannot rest against the pin in the defendants' construction.

Mr. Ahlberg:

If your Honor please, we have now spent about fifty minutes on exactly the same sort of thing that my objection was directed to; that is; your Honor can see just as readily as—

The Court:

Of course, that is perfectly self-evident, what the professor is talking about now.

Mr. Ahlberg:

I don't want to be making that same objection all the time. It seems to me that the expert is spending more time on these simple matters than is warranted.

The Court:

Yes, that is probably true, so far as this structure is concerned, because it is perfectly selfevident from an examina- [fol. 159] tion of the two structures. The differences are perfectly apparent.

Mr. Clarke:

I am entirely satisfied to submit that matter to your Honor's discretion and comparison of the structures themselves.

(Recess taken until 1:30 o'clock P. M.)

Q. Prof. Trinks, I note that in the specification reference is made to the "hollow valve 33 which is urged against its seat by the spring 34." What does the term "hollow valve" mean, as you understand the disclosure?

A. The valve is just as the specification says, hollow inside. It is a spherical shell,—or a semi-spherical shell, it is not a complete sphere, it is not a ball.

Q. Is that an advantageous construction for any reason that you know of?

A. It is an advantageous construction in the Gullborg patent, because in the Gullborg patent the spring rests on a pin and is therefore supported in a very wobbly manner, and it is therefore very desirable to have that spring properly guided by the inside of the valve; otherwise, there is no advantage. Otherwise, a solid ball is much better, because a solid ball will be tight in any position whatsoever, being spherical, whereas it is extremely difficult to make a hollow valve that really is tight in all positions.

Q. Do you find any such hollow valve in defendants' construction?

[fol. 160] A. No; in all of those which I examined I found a solid ball.

Q. As a matter of fact, do you find such hollow valve in any physical construction introduced in this case?

A. I haven't seen any.

Q. Now, comparison has been made heretofore between the dimensions, the relative dimensions of the cup or pin fitting of the Alemite type and of the Rex type. Do you find that comparison to be fair and to exist?

A. May I refer to some exhibits?

Q. Certainly.

A. (Witness referring to exhibits.) These exhibits on the outside look very much alike, and there is a reason for it. First of all, the part below the hexagon, that is to say, the threaded or screw parts, must necessarily be alike, because

that is a ⅛-inch gas pipe, the standards for which were laid down by the American Society of Mechanical Engineers many, many years ago, so far as I know, in the last century, and which have been adopted by the automobile builders, and therefore that part certainly cannot be changed, that is given. Then it is necessary to screw the fitting in, into place, and for that we use a hexagon, so as to use an ordinary wrench. The idea then is to use a hexagon bar which is a little bit larger in diameter than the pipe thread, so that the wrench will not mar or injure the thread. The next larger size, that is to say, the size that is just a little bit larger than the pipe thread, is a 7/16 hexagon, which is standard. We can buy ⅜ and 7/16 and ½. Now, the ⅜ would be too small, [fol. 161] and the ½ would be rather large, because we try to keep these things just as small as possible. Then above the hexagon bar we again make it as large as possible within the diameter of the hexagon bar which we have bought, making a small prong for the purpose of preventing the marring up of the fitting above. That determines the diameter from the prong. The length we keep as short as possible, because we do not want to have it stick out more than necessary, it is more easily broken off and also costs more. Now then, the dimensions and the length are determined by the pressure which we wish to carry. If we wish to carry only a pressure of fifty pounds per square inch, we could make it a whole lot shorter, but we must have a certain thickness to the exposed prong of the fitting, which I will mark Z on Defendants' Exhibit "B". If we wish to carry a pressure of ten thousand pounds per square inch, that prong is not any too strong as it is. The distance from the lug or pin up is determined by the pin and the size of the bar; and if I am not mistaken, a Rex fitting is slightly longer from the lug or pin up. But the designing engineer hasn't very much chance there to vary. If he uses a bayonet type coupling—a standard type of bayonet coupling, with lugs or pins sticking on the side,—he cannot very well have anything else but this. And that explains the similarity, without any of the other reasons.

Q. Well, what raw material do you understand these fittings are made from?

A. From a hexagon bar, which may be either brass or steel.

[fol. 162] Q. That is, a hexagon bar turned down at each side of the original hexagon faces, which then provide a turning nut?

A. Well, I wouldn't call it a turning nut, but I would say faces for turning, the same as the top of a cap screw; it isn't a nut really, but it will have the same faces as a nut.

Q. Well, nut-like faces for application of a turning wrench?

A. That is it; hexagon, for application of a wrench.

Mr. Clarke: Cross-examine.

Cross-examination.

Mr. Ahlberg:

Q. I presume you have examined an Alemite coupler such as Plaintiff's Exhibit 5, have you not?

A. I have.

Q. I presume that you know that the plaintiff in its commercial structure employs within the sleeve of the coupler two cup leathers instead of one, as shown in the patent drawings?

A. I observe that.

Q. Do you know what the purpose of the inner cup leather is?

A. I don't know that I am certain, but I judge it would be for the purpose of preventing leakage in the opposite direction.

Q. I think that is right; and that is desirable, is it not, because the plaintiff in its commercial structure mounts its [fol. 163] coupler swivelly instead of fixedly to the hose—with respect to the hose, as shown on that patent. Is that right?

A. May I examine that large one there?

Q. Yes. (Handing exhibit to witness.)

A. That is correct.

Q. Will you refer a moment to the drawing Defendants' Exhibit "C"? In that drawing the cup leather 26 corresponds to the outer cup leather in the plaintiff's coupler of Plaintiff's Exhibit 5, does it not?

A. Will you repeat the question?

Q. Yes. In the drawing of Defendants' Exhibit "C" the cup leather 26 corresponds to the outer cup leather in the plaintiff's commercial structure, Plaintiff's Exhibit 5?

A. Correct; to the one which is nearest the exit in Exhibit 12, nearest the exit.

Q. I presume you have examined the defendants' fittings like Plaintiff's Exhibit 17, a cut-open sample of which is exemplified here in Plaintiff's Exhibit 35?

A. I have.

Q. Are those fittings made so that they will cooperate with the plaintiff's commercial type of coupler of Plaintiff's Exhibit 5?

A. Yes, they are so made; and I told you that was by engineering necessity.

Mr. Ahlberg:

Now I object to the argumentative part of the answer, if your Honor please. I move that it be stricken.

[fol. 164] The Court:

We decline to strike that.

Q. It is true, is it not, that the defendants might have made their fittings of such a size as to prevent cooperation with the plaintiff's couplers of Plaintiff's Exhibit 5?

A. Yes, they might have done so, but of course that would have violated all laws of standards, because the Society of Automotive Engineers is very insistent upon standards, and competing manufacturers are sooner or later compelled to comply with a common standard and have everything as nearly alike as possible.

Q. That is, in order to enable the defendants to find a market for their fittings, it was necessary to make them of such a size as to adapt them for use with Alemite coupler of Plaintiff's Exhibit 5. Isn't that so?

A. I didn't say that.

Q. Well, the reason that the dimensions of the connecting end of the plaintiff's Alemite fittings of Plaintiff's Exhibit 4 are known as standard is because the Alemite Corporation has made its fittings of those particular dimensions and exclusively sold them to the automotive trade. Isn't that true?

A. That is true, with one qualification, namely, that the plaintiff used a pipe thread which was standard, and then made the rest of the parts so as to comply with the dimensions which were virtually dictated by the use of that pipe thread.

Q. Now, will you look at this assortment of fittings (handing same to witness), and state whether it is not true that

[fol. 165] there is a variety of threaded ends on the fittings, so that they may be screwed into bearing holes of various thread sizes?

A. That is correct. There are various pipe threads, but the majority of them are, of course, ⅛-inch pipe threads.

Q. The defendants might have made their threaded—or the defendant might have made its fittings with the threaded ends of ⅛-inch pipe thread standard, and made the connecting end of a diameter and dimension on the outside so that it would not coact with the plaintiff's Alemite coupler. Isn't that true?

A. Oh, they could have, but that would be suicide, because they couldn't compete.

Q. That is, it couldn't compete with the Alemite system, could it?

A. It couldn't compete with the sizes made by the Alemite Corporation, because they have made theirs as small as engineering requirements dictate.

Q. Well, it is economical, isn't it, to make the fittings of the smallest practicable size stock?

A. Absolutely.

Q. Prof. Trinks, will you please look at this drawing (handing same to witness), and tell us whether it correctly illustrates the defendants' ⅛-inch straight fitting of the type exemplified in Plaintiff's Exhibit 17?

A. It does.

Q. Now, that fitting is shown in conjunction with an Alemite hose and coupler of the type exemplified in Plaintiff's Exhibit 5, is it not?

[fol. 166] A. I can't tell, because—Oh, yes, that is correct, that does that. The inclined part of the slot is there; it does show that correctly.

Q. Now, in the middle figure on this drawing, part of the coupler shell is shown in elevation and part in section. Isn't that true?

A. Part of it is an outside view and part of it is a section; that is correct.

Q. And of course, the internal part of the upper half is concealed, because the drawing is partly in elevation. Isn't that true?

A. Correct.

Q. But the drawing does illustrate the outer of the two cup leathers employed by the plaintiff in its commercial coupler?

A. It does.

Mr. Ahlberg:

I offer the drawing in evidence, and ask that it be marked Plaintiff's Exhibit No. 45.

Q. Prof. Trinks, it would be possible, would it not, for the defendants to make the lugs of a larger diameter, so that cooperation with the Alemite coupler of Plaintiff's Exhibit 5 would be impossible. Isn't that true?

A. That is true, but that would not be economically desirable, because the bending moment which tries to break off the lugs marked z by me on Defendants' Exhibit "B" is dependent upon the diameter of the little pin or lug. The larger you make that lug, the greater is the bending moment, and the more readily the lug z—or the fork z is [fol. 167] broken off. Consequently, if you make the pin and lug larger, you must make the lug z deeper, and immediately you make the construction too expensive.

Q. Now, in the operation of these high pressure lubricating systems, what pressures may be reached?

A. Anything up to eight, nine or ten thousand pounds per square inch, depending upon the clogged condition of the bearing.

Q. That is a lot of pressure, isn't it?

A. That is a lot of pressure.

Q. And the tendency of the coupler to separate from the pin fitting operates to pull the lugs out of the tubular member of the fitting. Isn't that true?

A. It does.

Q. Now, in the plaintiff's construction, the pin extends entirely through the tubular member, does it not?

A. It does.

Q. Would you say that that form was preferable over the form of the defendants' fitting, where two pins are employed, and which are driven into the tubular member from opposite sides?

A. I can only say that it is not preferable, because you must in that case rest—or you do in that case rest the spring on the pin, and that doesn't give as good a support to the spring as resting it all the way around on a tube, or at

least something which has more bearing surface than the pin offers. And as far as I know, no pins have been sheared off; in other words, the shearing strength of the pin is sufficiently large. I don't know of any having been [fol. 168] sheared off, except under extreme pressures. Of course, you can always destroy anything by extreme pressures.

Q. Well, in the use of extreme pressures, there would be less tendency to shear off the ends of the Alemite pin than there would be to shear off or pull out of place the lugs employed by the defendant in its fittings. Isn't that true?

A. Your question is ambiguous. I think I can answer it this way: The shearing strength or the shearing conditions would be the same in both cases, but the tendency to bend would be different; and in bending I am forced to admit that the through pin has greater strength, but not in shearing.

Q. Now, you have pointed out that the defendants might have made their cross pins of a larger diameter than those employed by the Alemite Corporation, so that cooperation with an Alemite Coupler would be impossible, and you have pointed out that such a construction would be undesirable, because the bending forces operating on the fitting would have more of a tendency to pull the lugs out of the tubular member?

A. I didn't say that; I said it would have a tendency to break the fork Z on Defendants' Exhibit "B", because the lever arm becomes greater. The greater the bend, the greater is the lever arm. May I illustrate that on the same exhibit?

Q. Yes.

A. I have made a sketch on Defendants' Exhibit "B", showing that the lever arm which tends to break off the fork Z is equal to the radius of the pin, and therefore the larger that radius the greater is the bending moment or lever [fol. 169] arm which tries to pry the fork Z and destroy it.

Q. Now, by the use of a hardened steel coupler, pressures such as are ordinarily reached in the employment of this high-pressure lubricating system might be withstood, notwithstanding that the pin were increased to such a size that it would not permit cooperation between the fitting and the coupler. Isn't that true?

A. That could be done; but again, it would not be economical to do so.

Q. The defendants would only have to increase the diameter of their pins a few thousandths of an inch, would they not, to prevent cooperation of their fitting with the couplers of the plaintiff?

A. That is correct; but then, of course, anybody could file them off if he wanted to.

Q. And the increase in the lever arm is only equal to one-half of the increase in diameter, is it not?

A. That is what I stated here.

Q. Now, the defendants by the employment of pins of the same diameter that they use now, but placing the pins a lesser or greater distance from the discharge end of the fitting might have made their fittings so as to prevent cooperation of the fitting with the Alemite coupler of Exhibit 5. Isn't that true?

A. Yes; and if I am not mistaken, they are slightly different—at least, those that I have seen are slightly different.

Q. Well, if there were a difference of one or two thousandths of an inch, cooperation between the defendants' fittings and plaintiff's Alemite coupler of Exhibit 5 would still be possible?

[fol. 170] A. Oh, yes, would still be possible.

Q. But I mean, move the position of the pin maybe an eighth of an inch one way or the other, would prevent cooperation between the fittings and the coupler. Isn't that true?

A. An eighth of an inch, I think, is still within the range. You can see by reference to Plaintiff's Exhibit 12 that the spring can move quite a distance. Of course, that is not a large scale, enlarged model, but it can move quite a distance—move quite a distance.

Q. Well, how much would you say the defendant's location of its pins would have to be moved, to prevent cooperation between the defendants' fittings and the plaintiff's coupler of Exhibit 5?

A. About an eighth or a tenth of an inch.

Q. And if the defendants' pins were located either an eighth of an inch above or below their present position, then cooperation between the fittings and plaintiff's coupler would be impossible. Is that correct?

A. Yes, sir.

Q. Now, the defendants might also have lessened the outside diameter of the tubular member, to prevent coopera-

tion between the fittings and the Alemite coupler. Isn't that true?

A. They might; but that is undesirable, because the smaller it is, the more easily it is broken off.

Q. How much increased cost would be involved in the lengthening of defendants' pin fittings, to permit the change of location a tenth of an inch, as you have said, of the pins, to prevent cooperation between the defendants' [fol. 171] fittings and plaintiff's coupler of Plaintiff's Exhibit 5?

A. About five per cent of the material cost, and making the material and labor about equal, it would be about two-and-a-half per cent of the total cost.

Mr. Ahlberg:

That is all.

Redirect examination:

Q. Prof. Trinks, I neglected to ask you on direct whether you had examined any prior patent or publication which would have any comparable relationship or similarity to the subject matter of the Gullborg patent in suit. Have you?

A. I examined a number of them.

Q. Did you select from that number any one or more which are worthy of attention and discussion?

A. Well, the French patent to M. Seng is very pertinent.

The Court:

In view of the fact of the admission of the validity of the Gullborg patent in this case, is this evidence of any value to us?

Mr. Clarke:

Only in the way of limitation of claim, your Honor. We think it is always proper and permissible to introduce prior art for that purpose. We make no attack on the validity, by this evidence. We think we should be permitted to introduce this particular one, which is the only one I think [fol. 172] Prof. Trinks has selected, in showing whatever it shows.

The Court:

All right; go ahead.

A. (Continuing): The patent is to M. Seng, French patent No. 468,869, published July 18, 1914.

Q. Do you have copies of the specification as well as the drawing of this patent?

A. It has only one drawing, and there are here three photostats of the French specification.

Q. And you are familiar with the French language, are you not?

A. I am.

Q. Please state generally what is the disclosure of this patent, as to its main elements and manner of operation?

A. The patent shows a coupling to be used for grease lines, for forcing grease or oil under pressure. It uses the word "graissage", which means lubrication in general. The coupling consists of two halves, one containing a ball or sphere which is pressed against closure by a spring. That corresponds to what has been called in this suit the pin type coupling. It is screwed into the part to be lubricated, but it is not a bayonet lock. Instead of the bayonet lock, that patent has a lip mentioned B, over which the other half of the coupling, which I have called the pump half of the coupling, slips. In the patent the two parts are shown separately, Figure 3 being the one that corresponds to the pin type; that is shown here upside down in regard to the other half of the coupling, Figure 1. Figure 1 has an inner [fol. 173] part and an outer sleeve, together with a washer, which washer tightens against the part of the coupling which is shown in Figure 3. There is a system of three levers, which are so arranged that, after the coupling is pushed into place, it holds by the force of these three levers; it requires considerable force to pull it apart; but it shows that at least the thought of forcing grease under pressure through a check valve, and making it detachable, was published by Mr. Seng in 1914, before the war broke out.

Mr. Clarke:

I offer the copy of this patent, including the drawing and specification, as Defendants' Exhibit "D". That is all.

Defendants rest.

Rebuttal

Testimony of Don Alexander

Don Alexander, who testified previously, as assistant general manager of Alemite Corporation, identified Plaintiff's Exhibits 43 and 44 as its products, and that they form a part of the Alemite-Zerk, or push type, equipment manufactured and sold by Alemite. He identified what is known as a push type or Zerk compressor used with fittings of the type evidenced by said exhibits. Fittings like Exhibit 43 are made and sold to the Ford Company by plaintiff, and the Alemite push type compressor is in evidence as Plaintiff's Exhibit 46.

[fol. 174] Testimony of Elwood Hansmann

Elwood Hansmann, who testified previously as a member of the firm of plaintiff's counsel, has been active in the prosecution of the litigation under the Gullborg patent in suit, and is familiar with this litigation. He has looked at the Seng French patent No. 468,869, Defendants' Exhbit D, and is also familiar with proceedings in the several suits in which the Circuit Court of Appeals for the Sixth Circuit considered in Lyman vs. Bassick and other cases reported in 18 Fed. (2) 29. That the Seng patent was considered in Bassick vs. United Grease Gun Corporation, 40 Fed. (2) 549, but can't say without checking up as to Bassick vs. Ready Auto Supply Company, 22 Fed. (2) 331. It was considered in the Adams Case, 52 Fed. (2) 36, and has been used as an example of the prior art in numerous suits under the Gullborg patent in suit. He produced a petition for rehearing filed by the O. K. and Larkin Companies in Bassick vs. O. K. Manufacturing Company, et al., 18 Fed (2) 29, and a supplement thereof. Said supplement was offered as Plaintiff's Exhibit 47 and the order denying the petition he says appears at page 463 of Volume III of the Adjudication Books. A loose copy of the order was marked Plaintiff's Exhibit 48. Following this order was a petition for certiorari to the Supreme Court, offered as Plaintiff's Exhibit 49 which was denied, and which appears at pages 461-2 of the same volume III.

As to these volumes counsel for plaintiff said:

[fol. 175] Mr. Ahlberg:

I would like to have marked for identification, or in evidence, these Adjudication Books, which are a convenient collection of the adjudications under this Gullborg patent. Mr. Clarke I believe, has been furnished with a set of them. They combine all the opinions and decrees in these Alemite cases. I think it is convenient to the Court to have them in one place. I make this offer, with the understanding that they are not to be reproduced in any printed record on an appeal at any time, merely for the convenience of the Court.

The Court:

If that is the understanding, they do not even need to be marked as part of the evidence. I can use them without that.

Mr. Ahlberg:

All right.

Witness explains that decree in the O. K. case appears at page 532, whereupon counsel stated:

Mr. Ahlberg:

I offer the decree in evidence, and ask that it be marked Plaintiff's Exhibit No. 50.— Mr. Bollinger calls my attention to the fact that I failed to give exhibit numbers to the orders denying the petition for certiorari in the Larkin and O. K. cases, and I ask that they be marked Plaintiff's Exhibits Nos. 51 and 52.

And further examined as follows:

Q. Now, Mr. Hansmann, the decree that was ultimately [fol. 176] entered in the District Court in the O. K. case refers to Plaintiff's Exhibit 109, does it not?

A. It does.

Q. Can you produce a copy of the drawing Plaintiff's Exhibit 109 in that case, and referred to in the decree?

A. I have here a drawing showing Plaintiff's Exhibit 109, referred to in this O. K. decree.

Q. Can you state whether the device shown in that drawing is a connector adapted and intended for use with Ale-

mite pin fittings of the type exemplified in Plaintiff's Exhibit 4 here?

A. It is.

Mr. Clarke:

If the Court please, I have been under some strain in trying to identify this line of testimony as rebuttal, and I am unable to do so. It seems to me it is a line of testimony, if it should have gone in at all, should have gone in the main case. It does not rebut anything we have introduced; it is an entirely new field, and new matter. I object to it.

The Court:

What does it tend to rebut?

Mr. Ahlberg:

Well, I think the defendants' testimony was to the effect that the defendants made and sold fittings which the defendants allege were made and sold with the intention and expectation that they be used in conjunction with certain [fol. 177] couplers and compressors made and sold by the defendants. The same contentions have been advanced by other defendants in other cases that have been decided by Courts in a number of cases, and I should think the Court here would like to have the benefit of those prior adjudications. They are not readily apparent from the reports in the Federal Reporters, and this would be a convenient way of collecting that information for the Court.

The Court:

Then they are not really rebuttal; you are just undertaking to offer those decisions before this Court now as affecting the infringement of the patent in suit?

Mr. Ahlberg:

Well, there is some question about whether——

The Court:

It is not really evidence. If it is objected to, we will have to sustain the objection. You are pursuing your objection, are you?

Mr. Clarke:

Yes, sir; we stand on our objection.

The Court:

All right. The objection is sustained.

Mr. Clarke:

And I also submit the testimony already given by this witness should be expunged, under the same objection.

[fol. 178] The Court:

Well, you are a little late on that; but I suppose you can make a motion to strike it out, if you want to. It really isn't of evidential quality.

Mr. Clarke:

It so seems to me. The prior decisions are always available.

The Court:

Of course, if you are offering copies of opinions and papers in other courts, if they have any evidential value as affecting the issues in this case, they may be offered.

Mr. Clarke:

And they should be certified, also.

The Court:

Oh, yes, they should be certified. If you are standing on your strict legal rights in regard to certification, we would have to strike these copies all from the record that have been offered here.

Mr. Ahlberg:

I think it would be extremely important to your Honor, and convenient——

The Court:

I assume you could call my attention to the published decisions of any Court.

Mr. Ahlberg:

That is true, but it is not apparent from the published decisions just what the structures were that were involved [fol. 179] in these prior adjudications. Now, I didn't quite finish what I started to say a while ago, which was to the effect that other defendants, for example this O. K. Manufacturing Company, and also the Larkin Manufacturing Company, made and sold compressors and couplers——

The Court:

We cannot decide this case on what some defendants did in another case. The question we have to pass upon is: Is what the defendant did in this case a contributory infringement of your patent? It is a mere argument to say that other Courts have decided so and so. I don't know that you need to have the opinions of the other Courts in evidence.

Mr. Ahlberg:

No, I don't think it is necessary to have the reported opinions of the other Courts in evidence, but it is not readily apparent from the opinions of the other Courts just what the structures were that were involved in those cases.

The Court:

Well, you would have us trying a half dozen different lawsuits, if this is to go in. We would be passing upon the correctness of decisions of other Courts on the testimony concerning the whole thing. We couldn't say whether that Court correctly ruled on that or not, or properly ruled on it, unless we had all the evidence before us. As I understand you, Mr. Clarke, you are now moving to expunge from [fol. 180] the record in this case the uncertified copies of opinions of Courts and decrees that have been offered?

Mr. Clarke:

Yes, sir, I do; I stand on that objection, or that motion.

The Court:

We grant the motion, and these papers, Plaintiff's Exhibits Nos. 47 to 52, inclusive, are stricken from the record.

Mr. Ahlberg:

I guess that is all, Mr. Hansmann.

Mr. Clarke:

I have no cross-examination.

Plaintiff rests in rebuttal.
Testimony closed.

IN UNITED STATES DISTRICT COURT.

Findings of Fact—Conclusions of Law—Opinion—Filed Jan. 12, 1934

SCHOONMAKER, J.:

This case having come on to be heard as to the defendants G. S. Rogers and R. W. Dusenberry, on bill, answer and proofs, the Court now makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

(1) The plaintiff is the owner of United States Letters Patent No. 1,307,734, granted June 24, 1919, to Arthur V. [fol. 181] Gullborg, the invention disclosed therein, and all the rights and privileges under said letters patent.

(2) The said letters patent are good and valid in law.

(3) The defendants, G. S. Rogers, trading as the Rex Duplex Fitting Company, and R. W. Dusenberry, have infringed claims 1, 2, 3, 4, and 8 of said Gullborg Patent No. 1,307,734, by the sale of lubricating equipment, particularly fittings exemplified by Plaintiff's Exhibit No. 17, which fittings are adapted and intended for use in conjunction with the plaintiff's Alemite compressor and coupler outfits, like those exemplified by Plaintiff's Exhibits 5 and 6, and thereby have violated the rights of plaintiff under said letters patent.

(4) The defendants, G. S. Rogers, doing business as Rex Duplex Fitting Company, and R. W. Dusenberry, have infringed claims 14 and 15 of said Gullborg patent, by manufacturing and selling compressor and coupler outfits like those exemplified by Plaintiff's Exhibit 16, adapted and intended for use in conjunction with the plaintiff's Alemite pin-fittings of the types exemplified by plaintiff's Exhibit

4, and thereby have violated the rights of the plaintiff under said letters patent.

Conclusion of Law

The plaintiff is entitled to the relief prayed for in this bill of complaint as to these two defendants.

Opinion

This is a patent-suit involving Gullborg Patent issued June 24, 1919. Claims 1, 2, 3, 4, 8, 14 and 15 are in suit. [fol. 182] The defendant, R. H. Kidd, did not answer. The bill was taken pro confesso as to him, and a final decree was entered as to him, finding infringement by him of Claims 1, 2, 3, 4, and 8 of the Gullborg Patent. The other defendants answered, denying infringement, and the case was heard as to them on bill, answer, and proofs. As to them, we file herewith findings of fact and conclusions of law, holding them to be contributory infringers of this patent.

The Gullborg Patent covers a lubricating system of equipment, which has come to be practically of universal use in the lubricating of automobiles.

No question of its validity was involved in this suit. The patent has been held valid by many courts, and its validity was conceded at the trial.

Claims 1, 2, 3, 4, 8, 14, and 15 cover the combination of elements comprising the lubricating system, which includes pin-fittings permanently installed on each of the bearings of an automobile, the compressor or grease-gun from which the lubricant is forced into the bearing, and the coupler adapted to the pin-fittings, being designed to form the connection between the compressor and the pin-fittings.

The complete combination of the patent is made only when the grease-gun is attached by means of this coupler to the pin-fittings permanently installed in the automobile when built at the factory.

We find that the defendants are contributory infringers of the claims of the patent in suit through their sale of fit- [fol. 183] ting or coupling elements of the combination covered by the patent, with the purpose of bringing about its use in the patented combination. The evidence on this point is quite satisfying. The law is plain that the sale of an element of a combination for the purpose of bringing about its use in such a combination, constitutes the seller

a contributory infringer: Thomas-Houston vs. Ohio Brass Co., 80 Fed. 712. It is equally well settled that it is a contributory infringement to sell parts of a complete combination for use in conjunction with other parts of that combination which had been furnished by the patentee: Leeds & Catlin vs. Victor, 213 U. S. 301, and 213 U. S. 325.

The precise type of contributory infringement charged in the instant case was before the Circuit Court of Appeals of the Second Circuit in Bassick Mfg. Co. vs. Adams Grease Gun Corporation, 52 Fed. (2) 36; and that Court upheld the infringement charge.

We rest our conclusion in the instant case on the opinion of the Circuit Court of Appeals in that case.

Counsel for defendants cites the case of Radio Corporation vs. Lord, 28 Fed. (2) 257, (C. C. C. A. 3rd Circ.), as supporting defendants' position that they could not be contributory infringers, because so to hold them would be violative of the Clayton Act, Sec. 3, 15 U. S. C. A., Sec. 14. We cannot follow them there. The Lord case was not a patent-suit. As we view that case, our Circuit Court of Appeals merely held that a contract in a patented radio [fol. 184] receiver license-agreement to purchase licensor's vacuum tubes, was void. We have not that situation here. Neither of the defendants is licensed under the Gullborg patent.

A decree may be submitted granting the plaintiff the relief prayed for in its bill of complaint.

In United States District Court

Decree—Filed Jan. 19, 1934

This cause having been tried at final hearing upon the record and proceedings herein, upon testimony of witnesses heard in open court and upon briefs filed in behalf of the respective parties, the court having filed findings of fact and conclusions of law, counsel having been heard, and the court being fully advised in the premises, it is

Ordered, adjudged and decreed as follows:

(1) That the plaintiff, Alemite Corporation, is the owner of United States Letters Patent No. 1,307,734, granted June 24, 1919, to Arthur V. Gullborg, the invention disclosed

therein, and of all the rights and privileges under the said Letters Patent.

(2) That the said Letters Patent are good and valid in law.

(3) That the defendants, G. S. Rogers, doing business as Rex Duplex Fitting Company, and R. W. Dusenberry, have infringed claims 1, 2, 3, 4 and 8 of said Gullborg patent No. 1,307,734, by the manufacture and sale of lubricating [fol. 185] equipment, particularly fittings of the type exemplified in Plaintiff's Exhibit 17, which fittings are adapted and intended for use in conjunction with the plaintiff's Alemite compressors and coupler outfits like those exemplified in Plaintiff's Exhibits 5 and 6, and thereby violated the rights of the plaintiff under the said Letters Patent.

(4) That the defendants, G. S. Rogers, doing business as Rex Duplex Fitting Company, and R. W. Dusenberry, have infringed claims 14 and 15 of said Gullborg patent No. 1,307,734 by the manufacture and sale of compressor and non-suction effect coupler outfits like those exemplified in Plaintiff's Exhibit 16, adapted and intended for use in conjunction with plaintiff's Alemite pin fittings of the type exemplified in Plaintiff's Exhibit 4, and thereby violated the rights of the plaintiff under the said Letters Patent.

(5) That a writ of permanent injunction issue forthwith under the seal of this court, enjoining and restraining the defendants, G. S. Rogers, doing business as Rex Duplex Fitting Company, and R. W. Dusenberry, their agents, employees, as-ociates and confederates, from making, using and/or selling lubricating equipment, particularly fittings of the type exemplified in Plaintiff's Exhibit 17, and/or lubricant compressor and non-suction effect coupler outfits like those exemplified in Plaintiff's Exhibit 16, or any other device or devices embodying, or adapted and intended for use in apparatus embodying, the invention of claims 1, 2, 3, 4, 8, 14 and/or 15 of Gullborg patent No. 1,307,734, either for original equipment or for replacement under the guise [fol. 186] of "repairs" or otherwise, and from offering or advertising so to do, and from aiding or abetting or in any

way contributing to the infringement of said claims of said patent.

(6) That plaintiff recover from the defendants, G. S. Rogers, doing business as Rex Duplex Fitting Company, and R. W. Dusenberry, the damages which plaintiff has suffered and the profits which said defendants have made by reason of the said defendants' infringement of said Letters Patent, and that this cause be referred to Thos. D. Chantler, Esq., as Special Master of this court, to take and report an account of such damages and profits, and that the said defendants and their clerks, employees, associates and confederates, are required to attend before said Master from time to time as he shall direct and to produce before him such books, papers, documents and devices, and to submit to such oral examination, as he may direct.

(7) That plaintiff recover from the defendants, G. S. Rogers, doing business as Rex Duplex Fitting Company, and R. W. Dusenberry, plaintiff's costs and disbursements of this suit to be taxed by the Clerk, and that plaintiff have execution therefor against the said defendants.

F. P. Schoonmaker, United States District Judge.

Dated January 19, 1934.

[fol. 187] In United States District Court

Defendants' Petition for Appeal—Filed Feb. 17, 1934

Petitioners, G. S. Rogers, doing business as Rex Duplex Fitting Company and R. W. Dusenberry, defendants herein, respectfully represent

That petitioners, conceiving themselves aggrieved by the decree entered on the 19th day of January, 1934, in favor of plaintiff and against defendants and finding the defendants in contributory infringement of the patent in suit No. 1307734, and for the reasons specified in the Assignments of Error which is filed herewith, desire to appeal from said decree, returnable to the Circuit Court of Appeals for the Third Circuit.

Wherefore, petitioners pray that the said appeal may be allowed, that further proceedings in this Court be stayed, and that said appeal be made returnable to the United States

Circuit Court of Appeals for the Third Circuit, according to law, and that a transcript of the record, proceedings, papers and exhibits upon which said decree was made, may be duly authenticated and sent to the United States Circuit Court of Appeals for the Third Circuit; and that a citation may be granted directed to the above named plaintiff, Alemite Corporation, commanding it to appear before it, the said Court, to do and receive what may appertain to justice to be done in the premises.

And petitioners pray for all general and equitable relief.

Clarke & Doolittle, Counsel for Defendants.

[fol. 188] IN UNITED STATES DISTRICT COURT

ASSIGNMENTS OF ERROR—Filed Feb. 17, 1934

Now come the defendants, G. S. Rogers doing business as the Rex Duplex Fitting Company and R. W. Dusenberry, and say that in the record and proceedings of this Court in the above entitled cause and in the decree made and entered therein on the 19th day of January, 1934, there was manifest error, and for said error, defendants assign the following:

1. That the Court erred in finding as a fact that defendants' fittings are intended for use in conjunction with plaintiff's Alemite compressor and coupler outfits.

2. That the Court erred in finding as a fact that defendants have infringed claims 1, 2, 3, 4, and 8 of Gullborg patent in suit, by the sale of such fittings, alleged to be sold under such intention.

3. That the Court erred in finding as a fact that defendants have infringed claims 14 and 15 of Gullborg patent in suit by the sale of compressor and coupler outfits, alleged to be sold under intention of use with Alemite fittings.

4. That the Court erred in its conclusion of law that the plaintiff is entitled to the relief prayed in its bill of complaint.

5. That the Court erred in not finding for defendants on the defense of non-infringement.

6. That the Court erred in not finding for the defendants in the absence of any evidence of actual infringement of either of the claims in suit.

[fol. 189] 7. That the Court erred in not finding for the defendants in the absence of any evidence of intentional contributory infringement.

8. That the Court erred in not finding defendants' fittings and/or compressor and coupler outfits to be of different and non-equivalent construction from the respective elements of the patent in suit.

9. That the Court erred in not dismissing the bill of complaint, in view of the defenses offered.

Clarke & Doolittle, Attorneys for Defendants.

In United States District Court

Order Allowing Defendants' Appeal—Filed Feb. 17, 1934

This cause came on to be heard at this term and after consideration thereof it is hereby ordered that an appeal to the United States Circuit Court of Appeals for the Third Circuit from the decree of this Court entered and filed herein on the 19th day of January, 1934, be and the same is hereby allowed; and that so much of the transcript of the record herein as is necessary and essential to a proper presentation thereof to be forthwith transmitted to the United States Circuit Court of Appeals for the Third Circuit.

It is further ordered that the defendants' bond on appeal be fixed at $500.00, the bond to be filed within 10 days and to be approved by the Clerk.

F. P. Schoonmaker, United States District Judge.

Signed: February 17, 1934.

[fol. 190] Bond on appeal for $500.00 approved and filed Feb. 27, 1934, omitted in printing.

[fol. 191] Citation in usual form, showing service on Smith, Buchannan, Scott & Gordon, filed Feb. 27, 1934, omitted in printing.

[fol. 192] In United States District Court

Stipulation Re Original Transcript—Filed May 17, 1934

It is hereby stipulated, by and between the parties to the above entitled suit, subject to the approval of the Court:

That the original typewritten transcript of proceedings in the District Court shall be transmitted to the Circuit Court of Appeals for the Third Circuit as a physical exhibit; and,

That any party may refer to said transcript in the argument and briefs with the same force and effect as though said [fol. 193] typewritten transcript were printed as part of the record on this appeal.

Williams, Bradbury, McCaleb & Hinkle, Attorneys for plaintiff; Clarke & Doolittle, James Roy Van Kirk, Attorneys for Defendants.

Approved this 17th day of May, 1934.

F. P. Schoonmaker, United States District Judge.

IN UNITED STATES DISTRICT COURT

STIPULATED PRÆCIPE FOR TRANSCRIPT OF RECORD ON APPEAL—Filed May 17, 1934

It is hereby stipulated and agreed by and between counsel for the respective parties that the record on appeal in the above entitled cause shall comprise the following:

To be printed—

(1) Docket entries.
(2) Bill of Complaint.
(3) Answer to bill of complaint.
(4) Testimony of witnesses taken in open court, together with offers of evidence, rulings of the court, stipulations, and all other essential matters appearing in the record of [fol. 194] proceedings, partly in narrative form and partly in question and answer form, as appears in the stenographic transcript of the record and approved by the District Judge.
(5) Findings of fact, conclusions of law, and opinion of the District Court.
(6) Decree entered January 19, 1934.
(7) Petition for appeal.
(8) Assignments of error.
(9) Appeal bond.
(10) Order allowing appeal.
(11) Citation.

(12) Stipulation regarding original transcript of testimony on appeal as a physical exhibit, and approval thereof.

(13) Stipulated præcipe for transcript of record (this paper).

(14) Certificate of Clerk as to printed record.

Plaintiff's Exhibits

No.	Description
13	Alemite price list.
14	(a) to (i) Defendants' Circulars and price lists.
18	Defendants' sales literature comprising Rex price list and trade classification.
19	Copy of letter from Dusenberry to Hahn.

[fol. 195]

21	Receipt to Wade's Service, Inc., representing transaction involving 50 Rex fitting
24	Sales slip identified by Ballu
26	Sales receipt identified by Nelson Cornell.
28	Receipt representing the Ulrich transaction.
29	American Legion publication containing Robert H. Kidd advertisement of defendants' equipment.
30	Voucher in payment for defendants' Rex fittings sold to Equitable Auto Company.
31	Rex Duplex Fitting Company invoice to Equitable Auto Company.
34	Drawing of Lyman compressor used in Balluff transaction, the drawing being a copy of Plaintiff's Exhibit chart 11 identified in the Lyman decree.
36	Drawing illustrating defendants' Rex compressor and coupler outfit shown in conjunction with Alemite pin fitting.
37	Certified copy of Gullborg patent 1,307,734.
38	Certified copy of disclaimer of claim 12 of Gullborg patent 1,307,734.
39	File wrapper and contents of Gullborg patent 1,307,733.
40	File wrapper and contents of Gullborg patent 1,307,734.
41	Circular of Rex Duplex Fitting Co., illustrating and describing defendants' Rex compressor and coupler outfit.

42 Rex Duplex Fitting Sales Co. circular descriptive of defendants' Rex compressor and coupler outfit.

[fol. 196]

45 Drawing of Alemite C-600 compressor and coupler outfit shown in conjunction with defendants' Rex fitting.

Defendants' Exhibits

B Drawing of defendants' Rex fitting and non-suction effect coupler.

C Drawing of coupler of Gullborg patent 1,307,734.

D Copy of French Seng patent No. 468,869.

Exhibits to be transmitted as physical, and not to be printed.

Plaintiff's Exhibits

No.	Description
1	Articles of incorporation of The Bassick Manufacturing Company.
2	Certificate of change of name to Alemite Manufacturing Corporation.
3	Certificate of change of name to Alemite Corporation.
4	Assortment of Alemite pin fittings.
5	Alemite C-600 compressor, hose and coupler.
6	Alemite gat gun compressor, hose and coupler.
8	Old-fashioned grease cup.
9	Old-fashioned oil cups.
10	Old-fashioned oil can.
11	Aluminum Model of Alemite pin fitting.
12	Aluminum Model of Alemite suction-effect coupler.
16	Defendants' Rex compressor and non-suction effect coupler.

[fol. 197]

17	Assortment of defendants' Rex fittings.
20	One Rex fitting identified by Walkow.
22	Defendants' Rex fittings purchased by Balluff from Defendants' Chicago representative, Larson.
23	Lyman compressor identified by Balluff.
25	Defendants' Rex fittings purchased by Nelson Cornell from defendants' Chicago representative, Larson.
27	Defendants' Rex fittings purchased by Ulrich.
35	Cut-open specimen of defendants' Rex fitting.
43	Alemite push type fitting, drive-in type.
44	Alemite Zerk fitting with ball valve.
46	Alemite Zerk compressor.

Defendants' Exhibit

A Model of defendants' Rex fitting and non-suction effect coupler.

It is further stipulated and agreed that exhibits of either party may be retained in the custody of counsel, to be produced at the hearing on the appeal.

Clarke & Doolittle, James Roy Van Kirk, Attorneys for Defendants-Appellants. Williams, Bradbury, McCaleb & Hinkle, Attorneys for Plaintiff-Appellee.

Approved this 17th day of May, 1934.

F. P. Schoonmaker, United States District Judge.

[fol. 198] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 199] Minute entry of argument and submission, Oct. 9, 1934, omitted in printing.

[fol. 200] In United States Circuit Court of Appeals for the Third Circuit

October Term, 1934

No. 5463

G. S. Rogers, Doing Business as Rex Duplex Fitting Company, and R. W. Dusenberry, Defendants-Appellants,

v.

Alemite Corporation, Plaintiff-Appellee

Appeal from the District Court of the United States for the Western District of Pennsylvania

Before Buffington, Woolley and Thompson, Circuit Judges

Opinion—Filed December 18, 1934

Per Curiam:

In this case infringement, by the defendants, of certain claims of patent No. 1,307,734, granted to Gullborg, was

charged. On final hearing, the court held the patent valid and infringed.

The mechanism of the patent involved is described at length in 52 Fed. (2d) 36, and reference thereto saves needless repetition. The questions involved in the pres- [fol. 201] ent case were discussed by the court below in its opinion, and as no new principle of patent law is involved, and we find no error in that court's view, we limit ourselves to affirming the case on the opinion of the trial judge.

A true copy—Teste:

—— ——, Clerk of the United States Circuit Court of Appeals for the Third Circuit.

[fol. 202] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT, OCTOBER TERM, 1934

No. 5463

G. S. ROGERS, Doing Business as Rex Duplex Fitting Company, and R. W. DUSENBERRY, Appellants,

vs.

ALEMITE CORPORATION, Appellee

Appeal from the District Court of the United States for the Western District of Pennsylvania

JUDGMENT—Filed Dec. 18, 1934

This cause came on to be heard on the transcript of record from the District Court of the United States for the Western District of Pennsylvania, and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed by this Court that the decree of the said District Court in this cause be, and the same is hereby affirmed, with costs.

Philadelphia, December 18, 1934.

Per Curiam: Buffington, Circuit Judge.

[File endorsement omitted.]

[fol. 203] Petition for rehearing and brief in support thereof, covering 25 pages, omitted from this print. It was denied and nothing more by order of Jan. 25, 1935.

[fol. 204] In United States Circuit Court of Appeals for the Third Circuit

[Title omitted]

Order Denying Petition for Rehearing—Filed Jan. 25, 1935

And now, to wit, January 25, 1935, after due consideration, the petition for rehearing in the above-entitled case is hereby denied.

Philadelphia, January 25, 1935.

Per Curiam: Buffington, Circuit Judge.

[File endorsement omitted.]

[fol. 205] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 206] Supreme Court of the United States

Order Allowing Certiorari—Filed May 20, 1935

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit is granted, and the case is assigned for argument immediately following No. 872, Bassick Mfg. Co. vs. Hollingshead Co.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

The Chief Justice took no part in the consideration or decision of this application.

[fol. 207] IN SUPREME COURT OF THE UNITED STATES

STIPULATION TO DISPENSE WITH PRINTING OF PLAINTIFF'S EXHIBIT 13—Filed June 13, 1935

It is hereby stipulated by and between counsel for petitioner and respondent that Plaintiff's Exhibit 13 shall not be reprinted as part of the record but shall be retained merely as a physical exhibit with the right reserved to respondent to file or to hand up duplicate copies of this exhibit to the Court.

Respectfully submitted, Leonard L. Kalish, Attorney for Defendant-Petitioner.

May 29th, 1935, Philadelphia, Pa.

Lynn A. Williams, Attorney for Plaintiff-Respondent.

May 31, 1935, Chicago, Illinois.

[fols. 207½ & 208] [File endorsement omitted.]

[fol. 209] PLAINTIFF'S EXHIBIT NO. 14-A

Rex Duplex Fitting Company

Fulton Building, Pittsburgh, Penna.

April 14, 1932.

The following is a schedule of the Special State Distributor's Price, which we are pleased to quote you:

Rex Duplex High Pressure Hand Gun

Gun complete with hose, each	$4.30
Gun only less hose, each	2.45
Gun only with coupler, each	1.85
Hose only less coupler, each	1.40
Coupler only, each	.75

Rex Duplex Fittings

⅛ Straight	$25.00 M
⅛ 90°	50.00 M
⅛ 45°	60.00 M
⅛ 2" Extra Long	60.00 M
⅛ x ⅕ Brass Bushing	40.00 M

(Here follow photolithographs of Plaintiff's Exhibits 14-b and 14-c, side-folios 210 and 211)

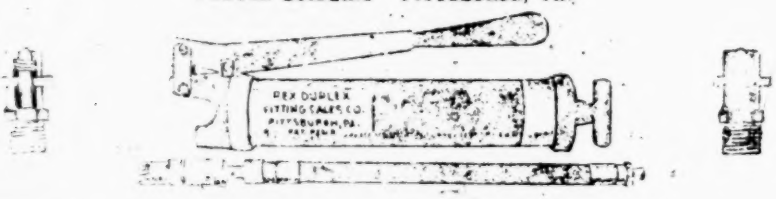
Plaintiff's Exhibit No. 14-b.

140A

Plfs Ex #14-b 11/2/33 HCT

REX DUPLEX FITTING SALES CO.

FULTON BUILDING PITTSBURGH, PA.



Gentlemen:

REX DUPLEX FITTING IS A SUPERIOR PRODUCT

The improved automatic spring action in the Rex Fitting insures a perfect seal up to 7,000 Lb. Pressure. This is accomplished by supporting the full circle of the spring on a brass bushing, which eliminates all rocking or wedging against the side walls of the tube and will consistently hold a given pressure. The enclosed literature describes the Rex High Pressure Hand Gun. In the attached bag you will find the Rex Lug Type Fitting for your testing.

THE REX DUPLEX FITTING IS A LEGITIMATE PRODUCT

The question of the possibility of patent infringement has received our very careful attention. The Rex Duplex Fitting was designed with full knowledge of the patent litigation on pressure grease fittings, and with the express purpose of avoiding infringement on all patents. We are advised by legal council that we do not infringe, therefore, we undertake to indemnify all dealers handling the Rex Duplex Fitting against any liability whatsoever for patent infringement. You can, therefore, purchase these fittings entirely without concern as to the possibility of any litigation for we are prepared financially and legally to defend any suit if instigated by anyone attempting to restrain the use of the Rex Duplex Fitting.

The following prices, speak for themselves:

FITTINGS		HAND GUNS	
1/4" St. Fitting	.06 ea.	Hand Gun comp.	$1[illegible] ea.
90° Angle	.12 "	" " less hose	[illegible] "
45° "	.14 "	Hose only with coupler	[illegible] "
2" Extra Long St.	.15 "	" " less "	[illegible] "
1/[illegible]-1/4" Brass Hex Bushing..	.10 "	Coupler only	1.75 "

Rex 10,000 Lb. High Pressure Hose can be supplied in any standard length.

Terms: 2% - Net Cash on Delivery - F. O. B., Pittsburgh, Pa.

We furnish Rex Fittings in the none pin, as well as the Lug Types.

On a trial order for any of above, money paid will be cheerfully refunded upon receipt of merchandise.

May we have the pleasure of serving you?

Very truly yours,

REX DUPLEX FITTING SALES COMPANY

RWD/ab

R. W. Dusenberry

Plaintiff's Exhibit No. 14-c.

Plff's Ex. 14-c 9/23/33

REX DUPLEX FITTING SALES CO.

FULTON BUILDING - PITTSBURGH, PA.

Gentlemen:

The attached literature describes the line of Rex Duplex Fittings and High Pressure Grease Hand Guns, also copies of letters to the trade for your reading and files.

Following is the Price List covering Rex Duplex Products:

HIGH PRESSURE HAND GUN

		TRADE	JOBBER
Gun complete with hose	Each	$10.50	$ 6.30
Gun only less hose	"	6.10	3.65
Hose only with coupler	"	4.40	2.65
Hose less coupler	"	3.40	2.05
Coupler only	"	1.75	1.10

Rex 10,000 Lb. High Pressure Hose can be supplied in any standard length.

REX FITTINGS

1/8" St -	60.00 per M.	35.00 per M.
1/8 90° Der.	120.00	60.00
1/8 45° "	140.00	70.00
1/8 2" St. Ex. Long	150.00	75.00
1/8 2" Brass Hex	100.00	50.00

[fol. 212] PLAINTIFF'S EXHIBIT No. 14-D

This is a copy of a circular letter of assurance which we are mailing to State Distributors, Jobbers, Dealers and Salesmen.

GENTLEMEN:

Relative to the legality of patents pending on the Rex Duplex Products, you are advised that our attorneys have carefully investigated all questions of the possible infringement and assure us that we are not infringing. We, therefore, guarantee to protect you against any liability whatever for patent infringement.

We maintain a legal staff of attorneys for the express purpose of protecting our legal rights, and for your protection as well, on any action of annoyance instigated by anyone attempting to restrain the use of Rex Duplex Products.

In the event you are annoyed or your campaign retarded, wire us immediately, and we shall instruct our attorneys to take prompt action for your protection.

Very truly yours, Rex Duplex Fitting Company, per G. S. Rogers. Rex Duplex Fitting Sales Company, R. W. Dusenberry. RWD/eb.

This discount sheet mailed to all jobbers throughout the United States.

(A) Apr. 29, 1932.

[fol. 213] PLAINTIFF'S EXHIBIT No. 14-E

Rex Duplex Fitting Company,

Fulton Building, Pittsburgh, Penna.

April 5, 1932.

Cowan & Co., 421 Main Street, Louisville, Ky.

GENTLEMEN:

Enclosed is a sample of our Rex Duplex Lug Type Fitting. On the attached sheet, you will find full information, relative to prices and illustrations of the Rex Duplex Fitting and Rex Duplex High Pressure Hand Gun.

We are at this time sending out 393 of the Kentucky Fleet Owners our circular letters, which we are enclosing, herewith, likewise this sheet along with jobbers prices will reach 30 jobbers and accessory dealers throughout the State of Kentucky.

We are anxious to make a connection with some reliable house or person, who would be interested in the State distribution of our products. Look over the enclosed set-up, and let us hear from you.

Very truly yours, Rex Duplex Fitting Sales Company, R. W. Dusenberry. RWD/eb.

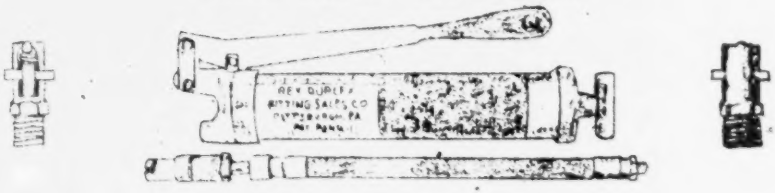
(Here follows photolithograph of Plaintiff's Exhibit No. 14-f, side folio 214)

214

Plaintiff's Exhibit No. 14-J.

REX DUPLEX FITTING SALES CO.

FULTON BUILDING - PITTSBURGH, PA.



Gentlemen:

The attached literature describes the line of Rex Dupler Fittings and High Pressure Grease Hand Guns, also copies of letters to the trade for your reading and files.

Following is the Price List covering Rex Duplex Products:

HIGH PRESSURE HAND GUN

		TRADE	JOBBER
Gun complete with hose	Each	$10.50	$ 6.30
Gun only less hose	"	6.10	3.65
Hose only with coupler	"	4.40	2.65
Hose less coupler	"	3.40	2.05
Coupler only	"	1.75	1.10

Rex 10,000 Lb. High Pressure Hose can be supplied in any standard length.

REX FITTINGS

1/8" St -	60.00 per M.	[illegible] per M.
1/8 90° Deg. -	120.00	60.00 " "
1/8 45° "	140.00	70.00 " "
1/8 2" St. Ex. Long	150.00	75.00 " "
1/8 ¼" Brass Nip	[illegible]	[illegible] " "

READ REVERSE SIDE FOR IMPORTANT INFORMATION

[fol. 215] PLAINTIFF'S EXHIBIT No. 14-G

Rex Duplex Fitting Company

Fulton Building, Pittsburgh, Penna.

The following is a schedule of the State distributor's price, which we are pleased to quote you:

Rex Duplex High Pressure Hand Gun

Gun complete with hose, each	$4.30
Gun only, less hose, each	2.45
Gun only with coupler, each	1.85
Hose only less coupler, each	1.40
Coupler only, each	.75

Rex Duplex Fittings

⅛ Straight	$22.00 M
⅛ 90°	47.00 M
⅛ 45°	50.00 M
⅛ 2″ Extra long	40.00 M
⅛ x ¼ Brass Hex Bushing	30.00 M

[fol. 216] PLAINTIFF'S EXHIBIT No. 14-H

Rex Duplex Fitting Sales Company

Fulton Building, Pittsburgh, Penna.

July 19, 1932.

Strawbridge & Clothier, Philadelphia, Pa.

Attention—Manager Automotive Division

GENTLEMEN:

In the attached bag you will find a complete sample line of Rex Duplex High Pressure Lug-type Fittings.

Rex Duplex Lug Fittings are a legitimate product.

The following schedule of prices which we are pleased to quote you will permit you to merchandise the line at a price which will average about 50% under the standard list and reflect a long margin of profit to you:

1/8" Standard Straights	$2.20 per C
90° Angles	4.70 " "
45° "	5.00 " "
1/8" x 1½" Long Straights	4.00 " "
1/8" x 1/4" Bushings	3.00 " "

Terms: 2%—10, n/30—F. O. B. Pittsburgh, Pa.

Anticipating the pleasure of serving you, and awaiting your reply, we remain

Very truly yours, Rex Duplex Fitting Sales Company, R. W. Dusenberry. RWD:FD.

[fol. 217] PLAINTIFF'S EXHIBIT No. 14-1

Rex Duplex Fitting Company,

Fulton Building, Pittsburgh, Penna.

April 23, 1932.

DEAR SIR:

Through our representative in New York, Mr. Ralph W. Gould, your name has come to our attention as a possible distributor on the Rex Duplex line. Therefore, we are sending you under separate cover a set-up of circular letters and letters to the jobbing trade, also letter of assurance, which will familiarize you with our line.

We have been very successful in getting representatives throughout the East and Middle West, and are very anxious to locate someone in the Northwest, who could handle the Rex Line as a Sales Representative or Distributor. Please read this circular matter carefully, note the position we are taking, and the discounts and prices offered the trade, and if interested, let us hear from you.

Yours very truly, Rex Duplex Fitting Sales Company, C. H. Emery. CHE/eb.

(Here follow photolithographs of Plaintiff's Exhibits No. 18, side folios 218 and 219)

Plaintiff's Exhibit No. 18.

REX DUPLEX FITTING SALES CO.
Price List

Plff Exh #18
11/2/33 Hagt

	OIL CO.	LARGE QUANTITY	MED. QUANTITY	LIST PRICE	
GUN COMPLETE	4.95	6.30	8.40	10.50	Price each
GUN ONLY	3.85	3.65	4.90	6.10	
HOSE COMPLETE	3.15	3.65	3.50	4.40	
HOSE ONLY	1.60	1.90	2.65	3.40	
COUPLER ONLY	.70	.90	1.35	1.75	
BAYONET TIP ONLY	.35	.45	.55	.60	
SEALING WASHER	.35	.45	.55	.60	Price per Dz.
1/4" ST. FITTINGS	4.00	4.00	5.00	6.00	Price per 100
90° " "	8.00	8.00	10.00	12.00	
45° " "	9.30	9.30	11.65	14.00	
1/4" x 1" LONG ST.	10.00	10.00	12.50	15.00	
1/8 to 1/4 BUSHINGS	3.00	3.00	4.50	6.00	

TERMS: Net cash on delivery to small unrated accounts.
To large well rated accounts, the salesmen may accept orders for direct shipment on open account.
Terms: 2% - 10 days - 30 Net, in which case the company will invoice the account direct, and on receipt of payment, will credit the salesman with the differential between the net amount collected and the salesman's net cost.

Plaintiff's Exhibit No. 18.

Sheet 2
Plffs Ex 18

TYPES OF PROSPECTS TO CONTACT

Group No. 1 - LARGE FLEET OWNERS

This group buy in large quantities and repeats consistently. They are found listed under the headings of bakers, laundries, bottling companies, sand and gravel companies, hayling and moving, transfer companies, department stores, etc.

Group No. 2 - TRANSPORTATION COMPANIES

Street railways, bus companies, taxi companies, etc

Group No. 3 - INDUSTRIAL

Large manufacturing plants, mines, publishing companies, etc.

Group No. 4 - MUNICIPAL

City street departments, county and state highway departments, etc.

Group No. 5 - LUBRICATING COMPANIES

Service stations, garages, local distributors of lubricants.

* * * * *

219
Plaintiff's Exhibit No. 18.
14415

[fol. 220] PLAINTIFF'S EXHIBIT No. 19

Copy for Mr. Kidd.

July 22, 1932.

Mr. C. Hahn, 202 City Court House, Pittsburgh, Pa.

DEAR SIR:

Want to thank you for the courtesy shown to our representative, Mr. R. H. Kidd, in his interview with you today. Following is a confirmation of prices quoted:

⅛" St. Fittings	4.25 per C
90° Angle "	.08 each
45° " "	.09 "
⅛ x 1½ "	.09½ "
⅛ x ¼" Brass Bush.	.07 "
Hand Gun complete	6.00 ea.
" " less hose	3.75 "
Hose only with coupler	2.50 "
" " less "	1.90 "
Coupler only	1.00 "

Rex 10,000 lb. High Pressure Hose can be supplied in any standard length.

Terms: 2%-10, n/30—F. O. B. Pgh.

Assuring you that it will be a pleasure to serve you, we remain

Yours truly, Rex Duplex Fittings Sales Co., R. W. Dusenberry. RWD:FD.

221

Plaintiff's Exhibit No. 21.

UNITED STATES DISTRICT COURT

ALEMITE CORPORATION vs. G. S. ROGERS et al.	EQUITY NO. 2677

PLAINTIFF'S EXHIBIT 21

Order No. 95 — May 16 1922

M Wadley Service

Ship to Forbes & Sixth ave

At ____ When ____

How Ship ____ Salesman RHK

Terms: ____ Buyer ____

50	1/8 Straight Fittings	3.	00
	Less ½ off Cash 10 days	2	00
			1
	Delivered		
	Original order		
	Special discount		
	Paid		

Kirk Supply Fitting Sales Co
902 Fulton Bldg
Robert H Kirk

Plaintiff's Exhibit No. 24.

Pltf Ex # 24
11/2/33 HCT

TELEPHONE CALUMET 4553

CHICAGO AUTOMOTIVE SURPLUS CO.
2312 Cottage Grove Avenue
CHICAGO, ILL.

9/17/3

15 Green Cast
v a.t. Sel
Sat 04

EXHIBIT C - EDWIN J. BALLUFF AFFIDAVIT

223

Plaintiff's Exhibit No. 26.

Plff. Ex. # 26
11/2/33 HCT

TELEPHONE CALUMET 4553

CHICAGO AUTOMOTIVE SURPLUS CO.

2312 Cottage Grove Avenue

CHICAGO, ILL.

Comet Mfg. Co. 7/16/32

30 Beer Cups 6" Hex 50¢ 1.50

Plaintiff's Exhibit No. 28.

Plf's Ex* 28 9/3/23 HC

July 11 1922

Received from Dr. M K Ulrich

Four 00/100 Dollars

$ 4.00 R H Kidd

225

Plaintiff's Exhibit No. 29.

East Liberty Post No. 5 Gazette

"Western Pennsylvania's Largest Post"

Department of Pennsylvania, American Legion

PITTSBURGH, PA., JUNE 6, 1925

No. 10

...TING

...Your Physician"

...scription work. Registered Pharmacists, ac-...doctors orders using only fresh pharmaceutical ...y delivery at all times.

...ROOM SUPPLIES AND TOILETRIES

...ERSKINE PHARMACY

CLYDE F. ERSKINE

...SOUTH HIGHLAND MONTROSE 2910

HIGH PRESSURE GREASE GUN

For greasing all Lubricating Systems, Rolling Mills, Cranes, Automobiles.

Equipped with 10,000 lbs. pressure hose, with coupler complete, automatic self feeding.

Rex Duplex High Pressure Gun

Sole Agent, Robert H. Kidd, Member Post 5

1817 Duffield St. Hiland 4013-J

East Liber...

East

Plf's Ex #30
11/2/33 HCT

THIS VOUCHER IS ISSUED IN FULL PAYMENT OF ACCOUNT AS STATED WITHIN, AND THE PAYEE ACCEPTS IT AS SUCH BY THE ENDORSEMENT BELOW.

NO OTHER RECEIPT IS REQUIRED

ENDORSEMENTS

The Union Trust Co. PITTSBURGH, PA. 8-72
The Union Trust Co. PITTSBURGH, PA. 8-72
JUN 1 1932

OP BAY DETACH

95 E

FARMERS DEPOSIT NATIONAL BANK 8-11

PITTSBURGH, PA.

DATE MAY 27 1932

$7.60

PAY EXACTLY 7 DOLLARS 60 CTS

TO THE ORDER OF Rex Duplex Fitting Company, Fulton Building, Pittsburgh, Pa.

EQUITABLE AUTO COMPANY

Plfs Ex #30
11/2/33 H.C.T

EQUITABLE AUTO COMPANY

435 SIXTH AVENUE, PITTSBURGH, PA.

MONTH May, 1928 — AUDIT NO. 95 E

To Red Duplicating Company,

DATE OF BILL	DESCRIPTION OF CLAIM	AMOUNT	TOTAL
May 19	For Grease Cups	8 00	
	- - Credit - -		
	By 5% discount	40	7 60
			7 60

I CERTIFY THAT THE ABOVE ACCOUNT IS CORRECT, AND THAT THE EXPENSE WAS INCURRED FOR THE BENEFIT OF THIS COMPANY.

APPROVED FOR PAYMENT

C. J. Maclees
CONTROLLER

EQUITABLE AUTO COMPANY

J. M. Kelin
AUDITOR OF DISBURSEMENTS

Form A10-2480

227

Plaintiff's Exhibit No. 30.

Plaintiff's Exhibit No. 31.

Pltf's Ex. # 31

PITTSBURGH, PENNA. MAY 19, 1932

11286

Sold To EQUITABLE AUTO COMPANY,
435 Sixth Avenue,
Pittsburgh, Penna.

Attn.: General Purchasing Agent.

IN ACCOUNT WITH

REX DUPLEX FITTING COMPANY

FULTON BUILDING

PITTSBURGH • PENNSYLVANIA

Your Order No. Q 36889

Reqn. No. Bryson 7044

SHIPPED VIA Delivered by Mr. Kidd TERMS 5% — 10 days FOB

100 1/8" Rex Grease Cups elbow type 13¢ ea. less 33 1/3% = $8.00

5% 40

760

FOR CHARGE
SEE OTHER SIDE

T. d. B.

DISCOUNT EXPIRES

ORDER

INTENDED USE

CHARGE ACCT. NO.

INVOICE

M. & B. LEXINGTON AVE.

CREDITED

FOB

DESTINATION

SHIPMENT

RET. ALLOWED

MAY 20 1932

MAY 23 1932

REX DUPLEX FITTING COMPANY

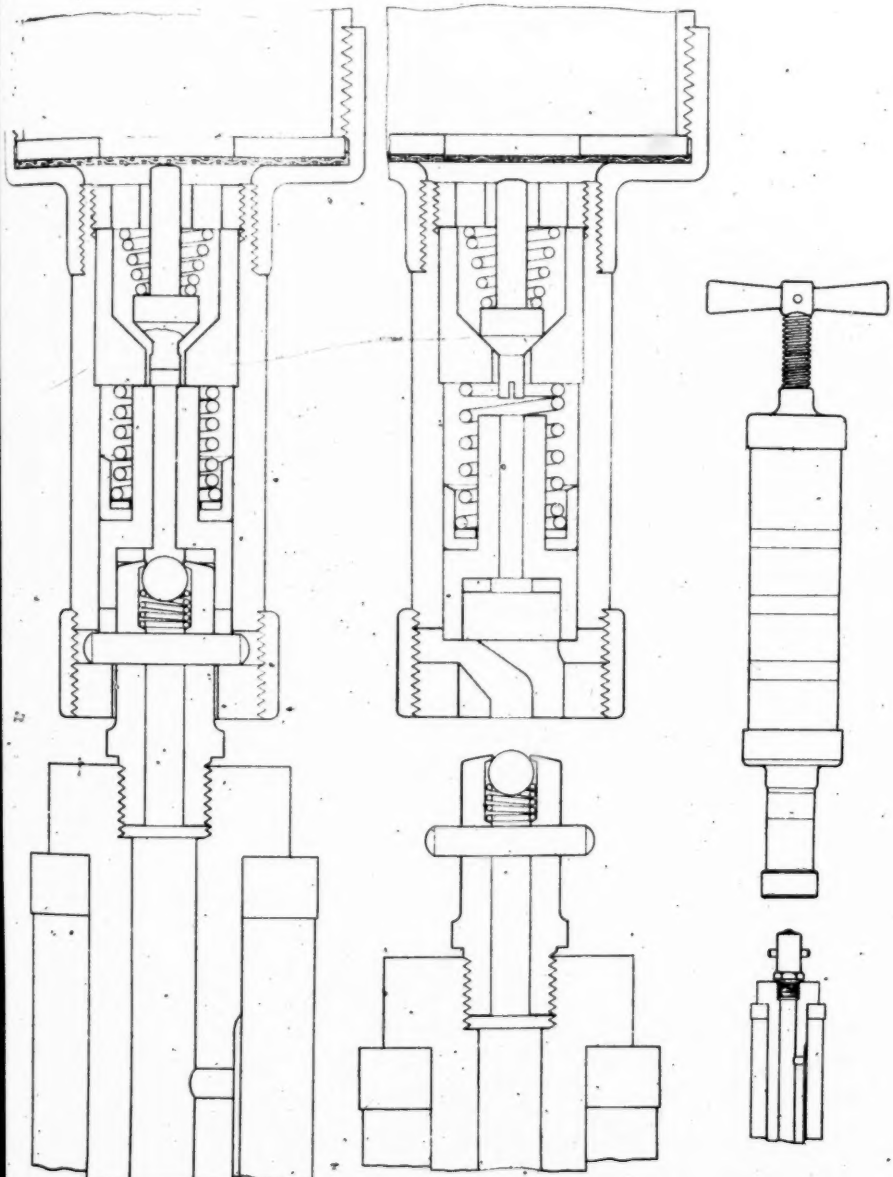
FULTON BUILDING

PITTSBURGH, PENNSYLVANIA

229

Plaintiff's Exhibit No. 34.

Plf's Ex #34
11/2/33 HCT



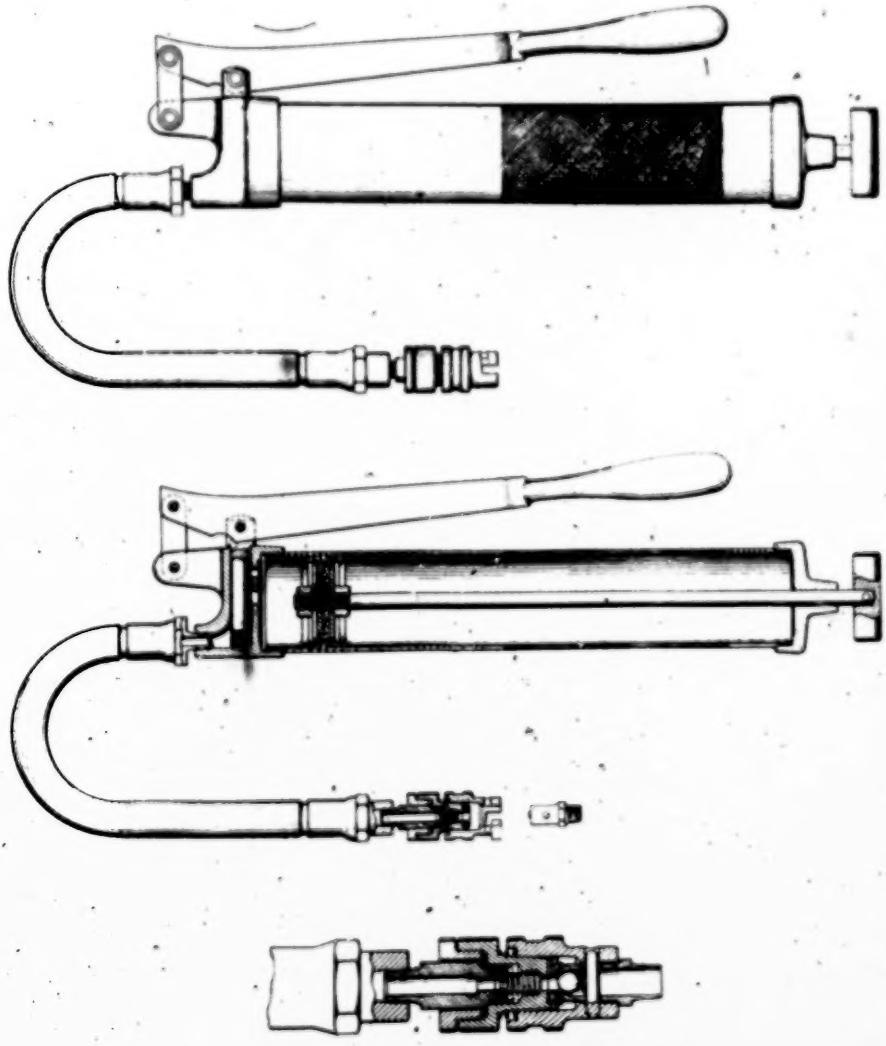
BASSICK vs. LYMAN, EQUITY NO. 1000; BASSICK vs. PEERLESS, EQUITY NO. 1275
(Copy of Plaintiff's Exhibit Chart 11)

Illustrates defendant's fitting and first type of coupling. Held to have infringed.

230

Plaintiff's Exhibit No. 36.

Pltf's Ex # 36



156

231

Plaintiff's Exhibit No. 7.

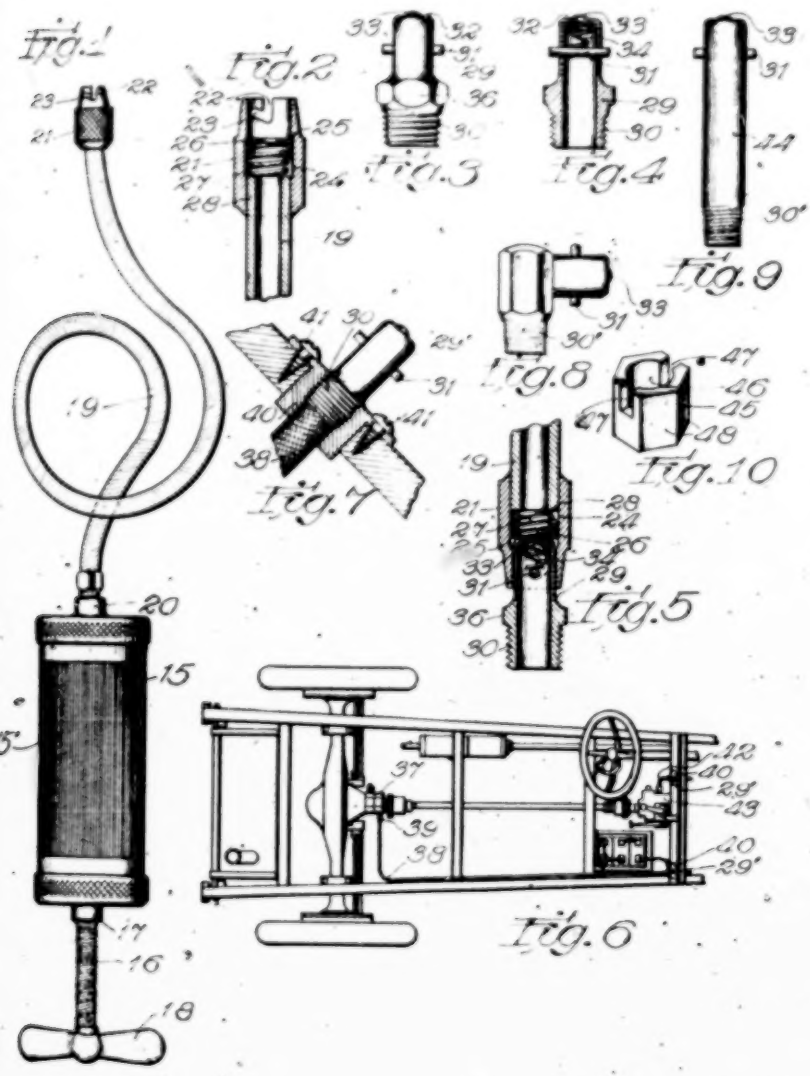
A. V. GULLBORG.

LUBRICATING MEANS.

APPLICATION FILED DEC. 21, 1917.

1,307,734.

Patented June 24, 1919.



Witnesses:
Andrew Winterrowd
Earl A. Price

Inventor
Arthur V. Gullborg
Williams, Bradbury & Lee
Attys.

156

Plaintiff's Exhibit No. 37.

UNITED STATES PATENT OFFICE.

ARTHUR V. GULLBORG, OF CHICAGO, ILLINOIS.

LUBRICATING MEANS.

1,307,734. Specification of Letters Patent. Patented June 24, 1919.

Application filed December 21, 1918. Serial No. 267,858.

To all whom it may concern:

Be it known that I, ARTHUR V. GULLBORG, a citizen of the United States, residing at Chicago, in the county of COOK and State of Illinois, have invented a certain new and useful Improvement in Lubricating Means, of which the following is a full, clear, concise, and exact description, reference being had to the accompanying drawing, forming a part of this specification.

My invention relates to lubricating means, and is especially concerned with means for supplying suitable lubricants to parts of machines or apparatus requiring lubrication where these parts are difficult to gain access to, and is further concerned with the provision of apparatus for supplying lubricants under pressure to movable parts, the said means comprising a grease pump or gun provided with means for detachably connecting it with the various parts to be lubricated.

The objects of my invention are:

1st. To provide novel means for supplying a lubricant under pressure to the parts of an apparatus to be lubricated, the said means comprising a grease pump or gun and means for detachably connecting the discharge of said grease pump or gun with the part to be lubricated.

2nd. To provide novel coupling means for connecting the grease gun with the parts to be lubricated, the said coupling means being so constructed that when the coupling members are uncoupled or disconnected from each other there will be no excess lubricant on the outer ends of the coupling members.

3d. To provide novel means for effectively sealing the joint between the coupling members so that the lubricant may be forced between the parts to be lubricated under a very heavy pressure.

4th. To provide novel means whereby lubricant may be supplied to parts to which it is difficult to gain access.

5th. To provide novel coupling members to be permanently secured to the parts to be lubricated.

6th. To provide novel means to assist in attaching and detaching a tubular coupling member to a part to be lubricated.

Further objects will appear as the description progresses, reference being had to the accompanying drawing in which,

Figure 1 is a side elevation showing my improved grease gun;

Fig. 2 is a longitudinal section through the coupling member thereof;

Fig. 3 is a side elevation of one type of coupling member adapted to be secured to the part to be provided with lubricant and co-acting with the coupling member of my grease gun for connecting the discharge outlet of the grease gun with the part to be lubricated;

Fig. 4 is a longitudinal section of the structure shown in Fig. 3;

Fig. 5 is a longitudinal section through the coupling members shown in Figs. 2 and 4; but taken on a plane at right angles to the section plane of Figs. 2 and 4 showing the two coupling members united;

Fig. 6 is a more or less conventional plan view of an automobile with the body thereof removed showing the novel means which I provide for conveying lubricant to parts ordinarily difficult to gain access to, the front portion of the automobile chassis being broken away;

Fig. 7 is a sectional view showing the means for securing my coupling members to the ends of the conduits for conveying lubricant to the parts difficult of access;

Fig. 8 is a side elevation of a modified form of coupling member;

Fig. 9 is a side elevation of a still further modification of my coupling member; and

Fig. 10 is a perspective view of the means which I employ for rotating the coupling members shown in Fig. 9 in either direction to attach it to or detach it from the part to be provided with a lubricant.

Similar characters of reference refer to similar parts throughout the several views.

Referring to the drawings, the reference character 15 indicates the barrel of my improved grease gun or pump which is provided in a wellknown manner with a plunger, not shown, which is reciprocated in the barrel 15 by means of a screwthreaded piston rod 16 which co-acts with a screwthreaded nut 17, the piston 16 being provided with a handle 18. The barrel 15 is provided with ribs or corrugations 15' to insure a firm grip of the hand thereon. A flexible conduit 19, of any suitable and wellknown construction, has one end secured to the discharge outlet 20 of my pump and the other end is provided with a hollow coupling member, indicated in general by the reference character 21. The free end of this coupling member, as shown in Fig. 2, is provided with a

bayonet slot 22, the transverse portion 23 of which is inclined from the inner end of the longitudinal portion of the slot toward the outer end of the coupling member for a purpose which will be referred to later on. The bore of the coupling member is enlarged at 24 to provide an annular shoulder 25. A perforated cup leather or sealing disk 26 is slidably mounted in the annular portion 24 of the bore of the coupling and is urged against the shoulder 25 by means of a coiled spring 27, one end of which abuts against the cup leather or sealing disk 26 and the other end of which abuts against the adjacent end 28 of the conduit 19. This end of the conduit may be soldered or secured in any convenient manner to the coupling member.

Referring to Figs. 3 and 4, the reference character 29 indicates as a whole a second coupling member which co-acts with the coupling member just described. This coupling member is in general tubular in form and is provided at one end with screwthreads 30 for securing it to the part to be lubricated. A pin 31 extends through and projects from the opposite sides of the other end of the tubular member. This end of the tubular member is flanged inwardly, as indicated at 32, to form a valve seat with which the hollow capsule shaped valve 33 co-acts. A spring 34 interposed between the pin 31 and the hollow valve 33 urges the latter against the valve seat 32. My purpose in making the valve 33 hollow is, first, to provide sufficient room for the spring 34 without materially increasing the length of the coupling member, and, second, to provide means which will tend to prevent the spring 34 from buckling or flexing longitudinally when the valve 33 is pushed inwardly to admit the lubricant. My invention contemplates the provision of facets 36 to receive the jaws of a wrench whereby the coupling member may be attached to or detached from the parts to be lubricated.

In Fig. 5 I have shown the coupling members 21 and 29 coupled together. In this position it will be noted that the spring 27 is partially compressed and that the sealing disk 26 is displaced from the annular shoulder 25 by the end of the coupling member 29. When the piston of the gun pump is actuated to force lubricant through the conduit 19 under pressure this pressure will cause the sealing disk 26 to seal the joint between the two coupling members and thus prevent any escape of lubricant over the sides of the coupling member 29. On account of the fact that the transverse portion 23 of the bayonet slot in the coupling member 21 is inclined toward the open end of this coupling member it is necessary in order to detach this coupling member from the coupling member 29 to move it toward the coupling member 29. This movement causes an additional small quantity of lubricant to be forced into the coupling member 29. When the coupling member 21 is then turned to permit the pin 31 to slide in the longitudinal portion of the slot 22 the sealing disk 26 is moved toward the end of the coupling member 29 under the pressure of the spring 34. This causes the sealing disk 26 to move toward the outer end of the coupling member 21 and thereby produces a slight vacuum which causes any grease which might otherwise remain on the outer end of the coupling member 29 or the outer side of the valve 33 to be sucked back behind the sealing disk 26, and thereby prevents any excess of lubricant from remaining on the end of the coupling member 29 or on the outside of the valve.

From the above description it will be seen that I have provided means for conveying a lubricant to the part or parts to be lubricated which not only prevents the loss of lubricant, even though the lubricant may be forced between the bearing surfaces under very high pressure, but also prevents the lubricant from remaining upon exposed portions of the coupling members after these have been uncoupled, and subsequently lost. This feature is of importance where, as I will describe later on, the coupling members are located at readily accessible points and where, in case the parts being lubricated form a part of a motor vehicle or other similar structure, the clothes of the operator are likely to come in contact with these coupling members.

Referring to Fig. 6 in which I have disclosed a portion of a motor vehicle with the body thereof removed, the reference character 37 indicates a bearing in the differential casing which is supplied with lubricant by a conduit 38 connected therewith by a suitable hollow coupling 39. The other end of the conduit 38 is brought forwardly in the vehicle and is secured to either the dash or the instrument board, as may be found convenient, by means of a floor socket 40, shown in detail in Fig. 7, which is secured in place by means of the screws 41 and is provided with an internal screwthread for receiving the screwthreaded portion 30 of a coupling member 29'. This coupling member 29' is similar to that shown in Figs. 3 and 4, except that it is not provided with the facets 36 for receiving the jaws of a wrench. The forward end of the conduit 38 may be soldered or otherwise secured in the socket 40. The reference character 42 indicates another conduit for conducting oil from the coupling member 29' to the transmission housing 43.

While I have illustrated means for conducting lubricant to but two portions of this automobile vehicle it is to be under-

stood that conduits similar to 38 and 42 may be used for conducting lubricant to any portion of the vehicle which it is desired to lubricate. Furthermore, this feature of my invention is not to be limited to means for lubricating motor vehicles, but is capable of being used for lubricating any apparatus whether the parts to be lubricated are or are not difficult of access.

In Fig. 8 I have shown a modified form of a coupling member to be secured to a part to be lubricated. This coupling member is L shaped and one end thereof is provided with screwthreads 30′ and the other end thereof being provided with a pin 31 and a spring-pressed valve or closure 33 similar to that described in connection with Figs. 3 and 4. The purpose of this coupling member is to provide means for connecting the coupling member 21 with a part to be lubricated which would otherwise be difficult of access if provided with a straight coupling member such as that shown in Figs. 3 and 4.

In Fig. 9 I have disclosed a still further modification of my coupling member wherein it is formed from a tubular member 44 of substantially constant diameter which is not provided with means for co-acting with a wrench to attach or detach it to the part to be lubricated. In order to thus attach or detach this member I provide the means illustrated in Fig. 10. This means comprises a sleeve-like member 45 having a bore 46 therein for receiving the tubular member 44 and slots 47 for receiving the ends of the pin 31 of the tubular member 44. The member 45 is provided with facets 48 for co-acting with a wrench or other tool for rotating this sleeve.

While I have described the preferred embodiments of my invention it is to be understood that it is capable of other adaptations and modifications within the scope of the appended claims.

Having thus described my invention what I claim as new and desire to secure by Letters Patent of the United States is:

1. The combination with a hollow coupling member having a pin projecting from one side thereof and a spring-pressed closure, of a pump having a flexible conduit connected with the outlet thereof, a second hollow coupling member secured to the other end of said conduit for receiving the closed end of said first named coupling member and provided with a bayonet slot for receiving said pin, the transverse portion of said slot being inclined from the longitudinal portion thereof toward the outer end of the coupling member, the bore of said coupling member being enlarged to provide a shoulder, a perforated sealing disk slidably mounted in the enlarged portion of said bore, and a spring confined between the ends of said conduit and said disk for urging said disk against said first named coupling member.

2. The combination with a hollow coupling member having a pin projecting from one side thereof and a spring-pressed closure, of a pump, a discharge conduit having one end secured to the outlet of said pump, a second hollow coupling member for receiving the closed end of said first named coupling member secured to the other end of said conduit and provided with a bayonet slot adapted to co-act with said pin, a perforated sealing disk mounted to reciprocate in the bore of said coupling member, means for yieldingly urging said sealing disk against the closed end of said first named coupling member, and means for limiting the movement of said sealing disk in the direction of said second coupling member.

3. The combination with a hollow coupling member having a spring-pressed closure, of a pump, a discharge conduit having one end secured to the outlet of said pump, a second hollow coupling member for receiving the closed end of said first named coupling member secured to the other end of said conduit, a perforated sealing disk mounted to reciprocate in the bore of said coupling member, means for yieldingly urging said sealing disk against the closed end of said first named coupling member, and means for limiting the movement of said sealing disk toward said second coupling member.

4. The combination with a hollow coupling member having a spring-pressed closure, of a pump, a discharge conduit having one end secured to the outlet of said pump, a second hollow coupling member for receiving the closed end of said first named coupling member secured to the other end of said conduit, a perforated sealing disk mounted to reciprocate in the bore of said coupling member, and means for yieldingly urging said sealing disk against the closed end of said first named coupling member.

5. The combination with a pump having a flexible conduit connected with the outlet thereof, of a hollow coupling member secured to the other end of said conduit and provided with a bayonet slot, the transverse portion of said slot being inclined from the longitudinal portion thereof toward the outer end of the coupling member, the bore of said coupling member being enlarged to provide a shoulder, a perforated sealing disk slidably mounted in the enlarged portion of said bore, and a spring confined between the ends of said conduit and said disk for urging said disk toward said shoulder.

6. The combination with a pump having a discharge outlet, of a coupling member connected with said discharge outlet and provided with a bayonet slot, the transverse

portion of said slot being inclined from the inner end of the longitudinal portion thereof toward the outer end of said coupling member, a perforated sealing disk slidably mounted in the bore of said coupling member, and means for yieldingly urging said sealing disk toward the outer end of said coupling member, and means for limiting the movement of said sealing disk toward the outer end.

7. The combination with means for supplying lubricant under pressure, said means comprising a discharge outlet, of a coupling member connected with said discharge outlet, a perforated cup leather slidably mounted in said coupling member, and means for yieldingly urging said cup leather toward the outer end of said coupling member.

8. The combination with an apparatus having a part to be lubricated, of a conduit for conducting lubricant to said part, a coupling member secured to the end of said conduit and provided with a spring-pressed valve closure, means for supplying lubricant to said conduit comprising a receptacle provided with a discharge outlet, a second coupling member connected with said discharge outlet, means for detachably uniting said coupling members, and means for sealing the joint between said coupling member and for removing excess lubricant from the adjacent ends thereof when said coupling members are uncoupled.

9. The combination with an apparatus having a part to be lubricated, of a conduit for conducting lubricant to said part, a coupling member secured to the end of said conduit and provided with means for supplying lubricant to said conduit comprising a receptacle provided with a discharge outlet, a second coupling member connected with said discharge outlet, means for detachably uniting said coupling members, and a pliable gasket for sealing the joint between said coupling members.

10. The combination with an apparatus having a part to be lubricated, of a conduit for conducting lubricant to said part, a coupling member secured to the end of said conduit and provided with means for supplying lubricant to said conduit comprising a receptacle provided with a discharge outlet, a second coupling member connected with said discharge outlet, and means for detachably uniting said coupling members and for removing excess lubricant from the adjacent ends thereof when said coupling members are uncoupled.

11. The combination with a bearing provided with a member for receiving lubricant, of means for supplying lubricant thereto comprising a hollow member, means for supplying lubricant to said hollow member under pressure, means for detachably connecting said members, and means for sealing said connection comprising a gasket positioned between said members and held against one of said members by the pressure of the lubricant.

12. The combination with a bearing provided with a member for receiving lubricant, of means for supplying lubricant thereto comprising a hollow member, means for supplying lubricant to said hollow member under pressure, means for detachably connecting said members, means for sealing said connection comprising a gasket positioned between said members and held against one of said members by the pressure of the lubricant, and a spring for initially positioning said gasket against said member.

13. The combination with a receptacle for receiving lubricant, of means for supplying lubricant to said receptacle comprising a hollow member, means for forcing lubricant into said hollow member under pressure, and means for connecting said hollow member to said receptacle in fluid-tight relation comprising a pliable member positioned in said hollow member and having one face for contacting with said receptacle, the other face of said pliable member being subjected to the pressure of the lubricant in said hollow member.

14. The combination with a grease cup comprising a tubular member having one end flanged inwardly to provide a closure seat, a closure, a pin extending through said tubular member and from both sides thereof, and a spring confined between said pin and closure, and tending to hold said closure on its seat, of a grease pump having a discharge conduit, and means co-acting with the ends of said pin for detachably connecting the discharge end of said conduit with said grease pump.

15. The combination with a grease cup comprising a tubular member having a closure seat, a closure, a pin extending through said tubular member and from both sides thereof, and a spring confined between said pin and closure, and tending to hold said closure on its seat, of a grease pump having a discharge conduit, and means co-acting with the ends of said pin for detachably connecting the discharge end of said conduit with said grease cup.

16. The combination with a grease gun having a discharge conduit, of means for connecting said conduit with a bearing comprising a tubular member, co-acting means on said conduit and said tubular member for detachably connecting said conduit and tubular members, and a flexible member for sealing the joint between said conduit and said tubular member, said flexible member having an aperture for the passage of lu-

bricant from said conduit to said tubular member, a portion of one face of said flexible member being positioned so as to be subjected to any pressure created in said conduit to force it against said tubular member.

17. The combination with means for supplying lubricant under pressure comprising a discharge member, of means for connecting said discharge member to a bearing comprising a tubular member, and means for detachably connecting said members in sealed relation comprising means subjected to the pressure created in said members, the said means being positioned between said members and held against one of said members by said pressure.

18. The combination with a member for receiving lubricant, of means for supplying lubricant thereto under pressure comprising a tubular member, means for detachably connecting said tubular member to said lubricant-receiving member in sealed relation comprising a flexible member provided with an aperture for the passage of lubricant, one face of said member being subjected to the pressure of the lubricant.

In witness whereof, I hereunto subscribe my name this 14th day of December, 1918.

ARTHUR V. GULLBORG.

Witnesses:

JOHN E. CARLSON,

JOHN L. STEFFEN.

Ex. #38

Plaintiff's Exhibit No. 38.

DISCLAIMER.

1,307,734.—*Arthur V. Gullborg*, Chicago, Ill. LUBRICATING MEANS. Patent dated June 24, 1919. Disclaimer filed August 29, 1927, by the assignee by mesne assignments, *The Bassick Manufacturing Company.*

Hereby enters this disclaimer to that part of the claims in said specification which is in the following words, to wit:

"12. The combination with a bearing provided with a member for receiving lubricant, of means for supplying lubricant thereto comprising a hollow member, means for supplying lubricant to said hollow member under pressure, means for detachably connecting said members, means for sealing said connection comprising a gasket positioned between said members and held against one of said members by the pressure of the lubricant, and a spring for initially positioning said gasket against said member."

[*Official Gazette September 13, 1927.*]

232 Plfs. Ex #39
Plaintiff's Exhibit No. 39. 194

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DEPARTMENT OF COMMERCE
UNITED STATES PATENT OFFICE

To all persons to whom these presents shall come, Greeting:

THIS IS TO CERTIFY that the annexed is a true copy from the records of this office of the File Wrapper and Contents, with exception of Notices of Suit; and Drawing, in the matter of the

Letters Patent of

Arthur V. Gulberg,

Number 1,307,755, Granted June 24, 1919,

for

Improvement in Lubricating Apparatus.

IN TESTIMONY WHEREOF I have hereunto set my hand and caused the seal of the Patent Office to be affixed, at the City of Washington, this eighteenth day of May, in the year of our Lord one thousand nine hundred and thirty-one and of the Independence of the United States of America the one hundred and fifty-fifth.

ATTEST:

Chief of Division.

Thomas E. Robertson
Commissioner of Patents

Plaintiff's Exhibit No. 39.

Mod. #1

SERIAL Series of 1915.

2[illegible]6586 [illegible]3 (EXR'S BOOK) 67

No. 45 PATENT No. 1307733

Arthur V. Lindberg. PAT. JUNE 24 1910.

Chicago

Illinois.

Lubricating Apparatus.

	ORIGINAL	RENEWED
Petition	Feb 11 1918	191
Affidavit	" " 1918	191
Specification	" " 1918	191
Drawing	" " 1918	191
Photo Copy	191	191
First Fee Cash $15.	Feb 11 1918	191
" " Cert.	191	191
Appl. Rec'd at Gazette	Feb 11 1918	191
Examined and Passed for Issue	191	191
	Ex. Dir.	Ex. Dir.
Notice of Allowance Granted 19	1919	191
Final Fee Cash $20	May 28 1919	191
" " Cert.	191	191
Patented	JUN 24 1919	191

Attorney Williams, Bradbury & Lee. Monadnock Block. Chicago, Ill.

Associate Attorney

Class of Claims Allowed 4 Print Claims 1 2 in O. G. (Cl. 184-1)

Title as Allowed Lubricating Apparatus

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Plaintiff's Exhibit No. 39.

15

February 9, 1918.

Hon. Commissioner of Patents,

Washington, D. C.

Sir:

Enclosed herewith please find the present application papers of Arthur V. Gullborg covering an improvement in Lubricating Apparatus, Case 2, also Lynn A. Williams' check for $15.00 to cover the filing fee thereon.

Respectfully,

Williams Bradbury & Co.

Enclosures.

3.

216226-1

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Plaintiff's Exhibit No. 39.

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216,586-1

TO THE COMMISSIONER OF PATENTS:

Your petitioner, ARTHUR V. GULLBORG, a citizen of the United States, and resident of Chicago, in the County of Cook, and State of Illinois, whose post-office address is C/o Alemite Metals Company, 341 West Chicago Avenue, Chicago, Illinois, prays that letters patent may be granted to him for the improvement in LUBRICATING APPARATUS (Case 3) set forth in the annexed specification, and he hereby appoints WILLIAMS, BRADBURY & SEE (Reg. No. 10,473) a co-partnership composed of Lynn A. Williams, Clifford C. Bradbury, and Robert M. See, of 1315 Monadnock Block, Chicago, Illinois, his attorneys, with full power of revocation and substitution to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent Office connected therewith.

Signed at Chicago, in the County of Cook and State of Illinois, this 14 day of Feb. 1918.

Arthur V Gullborg

216576-2

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. Plaintiff's Exhibit No. 39.

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TO ALL WHOM IT MAY CONCERN:

Be it known that I, ARTHUR V. GULLBORG, a citizen of the United States, residing at Chicago, in the County of Cook and State of Illinois, have invented a certain new and useful improvement in LUBRICATING APPARATUS, of which the following is a full, clear, concise, and exact description, reference being had to the accompanying drawings, forming a part of this specification.

This invention relates to lubricating apparatus and is particularly concerned with the provision of means for supplying lubricating grease to bearings which are more or less inaccessible. One object of my invention is to provide means of the character described comprising a novel grease pump which cooperates with a grease cup of novel construction to entirely fill the grease cup without wasting any of the lubricating grease. Another object of my invention is to provide a grease pump having a flexible discharge conduit. A still further object of my invention is to provide a grease pump having a flexible discharge conduit provided with means for interchangeably locking either end thereof to said grease pump or to the grease cups which are being filled by the grease pump, and a still further object is to provide a flexible discharge conduit for my improved grease pump one end of said conduit being provided with a straight coupling and the other end thereof being provided with an L-shaped coupling, whereby, by the use of either one or the other of these couplings it is possible to

1-1- 1165-86-3

Plaintiff's Exhibit No. 39.

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obtain access to grease cups in comparatively inaccessible places. Other objects, adaptabilities, and capabilities will appear as the description progresses, reference being had to the accompanying drawings, in which

Figure 1 illustrates my improved grease pump supplying grease to one of my novel grease cups, the grease pump being shown partially in longitudinal section. In this view my improved grease cup is shown applied to a steering knuckle of an automobile;

Figure 2 is a longitudinal section through my improved grease cup; and

Figure 3 is a longitudinal section through one of the coupling members.

Referring to the drawings, the reference character 5 indicates the barrel of my improved grease pump, one end of which is closed by a head 6, which may be soldered or otherwise secured to the end of the barrel. The opposite end of the barrel is closed by the head 8, which has an internally threaded flange 9 for receiving the external threads 10 on the end of the barrel. The head 6 is provided with a central boss 11, which is provided with a screwthreaded bore for receiving the screwthreaded piston rod 12. The rod 12 is provided with a handle 13 for rotating the same. The inner end of the rod 12 has a piston mounted thereon which comprises the spaced disks 14 and 15 between which is confined the cup leather 16, the two disks 14 and 15 and the cup leather being rotatably mounted upon the reduced end 17 of the piston rod and retained in place by means of a washer 18, through which the end of the piston rod extends and is riveted over to secure the washer thereto.

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Plaintiff's Exhibit No. 39.

The head 8 is provided with a central boss 29 having a reduced portion 30, shown in dotted lines in Figure 1, forming a shoulder 31 and a discharge opening 32 formed therethrough. A pin 33 extends through the reduced portion 30 and from both sides thereof. The discharge conduit 24 is formed from a piece of flexible duct, preferably comprising an outer spiral metallic rib 35. There are numerous flexible ducts in commercial use which may be employed for this part of my invention, and further description thereof appears to be unnecessary. At one end of the duct 24 I provide an L-shaped coupling 26 having bayonet slots 27, one of which is not shown, which co-act with the opposite ends of the pin 33 to secure the coupling to the pump. The opposite end of the conduit 24 is provided with a straight coupling 28 having bayonet slots 29, one of which is not shown, for co-acting with the opposite ends of the pin 30 of my novel grease cup.

From the above description it will be clear that either coupling member can be connected with either the pump or with the grease cup. By using the L-shaped coupling for connecting with the grease cup it is sometimes possible to gain access to a grease cup which would not otherwise be accessible.

My novel grease cup comprises a tubular member 31 having the screwthreads 32 at one end thereof for securing them to a bearing, and the other end thereof being flanged inwardly as shown at 33, for the purpose of providing a seat for the ball closure 34. This closure is urged against its seat by means of a compression spring 35, which is confined between the pin 30 and the closure 34. The central portion of my grease cup is hexagonal in cross section, as indicated at 36, thereby providing means for receiving the

216-586-57

jaws of a wrench to screw the cup into place.

In Figure 3 the reference character 37 indicates a gasket made of felt or other suitable material for sealing the connection between the coupling and the grease cup. From this construction it will be seen that when the coupling member is secured to the grease cup by means of the bayonet connection, there will be no chance for the grease to escape between these two members when the piston rod 12 is rotated to force the piston inwardly, and thereby force the grease into the grease cup. This is an improved feature of my invention for the reason that in prior grease pumps with which I am acquainted, no means has been provided for locking the discharge end of the nozzle to the grease cup, and consequently, if more grease than is necessary to fill the grease cup is forced through the nozzle, the excess quantity of grease merely overflows the edge of the grease cup and is wasted. With my improved construction there is no chance for grease being wasted in this manner. Furthermore, it is possible completely to fill the grease cup with grease, which is a result impossible of being obtained with the old type of grease pumps for the reason that by the use of these pumps more or less air always became entrapped in the grease.

Another advantage of my construction lies in the fact that after the coupling member of my grease pump has been connected with the grease cup, the pump can be operated without paying any attention to the location of the grease cup.

While I have disclosed the preferred embodiment of my invention, it is to be understood that it is not limited to the details of the structure described, but is capable of other adaptations and modifications within the scope of the appended claims, some of which are broad enough to include

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Plaintiff's Exhibit No. 30.

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constructions in which the grease cups are entirely dispensed with and means are provided for detachably connecting the grease pump with members having apertures formed therein for conveying grease to the parts to be lubricated.

Having thus described my invention, what I claim as new and desire to secure by Letters Patent of the United States is:

8 Bottom

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Plaintiff's Exhibit No. 39.

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1. The combination with a grease pump having a discharge opening and a flexible discharge conduit provided at one end with a straight coupling and at the other end with an L-shaped coupling, of a grease cup and means on said grease pump and grease cup for co-acting with said couplings to interchangeably connect either end of said conduit with said pump and cup respectively.

2. The combination with a grease pump having a discharge opening and a discharge conduit provided at one end with a straight coupling and at the other end with an L-shaped coupling, of a grease cup and means on said grease pump and grease cup for co-acting with said couplings to interchangeably connect either end of said conduit with said pump and cup respectively.

3. The combination with a grease pump having a discharge opening and a flexible discharge conduit provided at each end with a coupling, of a grease cup, and means on said grease pump and grease cup for co-acting with said couplings to interchangeably connect either end of said conduit with said pump and cup respectively.

4. The combination with a grease pump having a discharge opening and a discharge conduit provided at each end with a coupling, of a grease cup, and means on said grease pump and grease cup for co-acting with said couplings to interchangeably connect either end of said conduit with said pump and cup respectively.

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Plaintiff's Exhibit No. 59.

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5. The combination with a grease pump having a discharge opening and a discharge conduit therefor, of a grease cup and co-acting means on said conduit and grease cup for detachably locking the discharge end of said conduit to said grease cup.

6. The combination with a grease pump having a discharge opening and a flexible discharge conduit therefor, of a grease cup and co-acting means on said conduit and grease cup for detachably locking the discharge end of said conduit to said grease cup.

7. The combination with a grease pump and a grease cup of means for detachably connecting said pump to said cup and for conveying grease from said pump to said cup.

8. A grease cup in combination with a grease pump having a discharge orifice, and means for detachably connecting said grease pump to said grease cup to discharge thereinto.

9. The combination with a grease cup comprising a tubular member having one end flanged inwardly to provide a closure seat, a closure, a pin extending through said tubular member and from both sides thereof, and a spring confined between said pin and closure, and tending to hold said closure on its seat, of a grease pump having a discharge conduit, and means co-acting with the ends of said pin for detachably connecting the discharge end of said conduit with said grease pump.

2165-84-9

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~~10.~~ The combination with a grease cup comprising a tubular member having a closure seat, a closure, a pin extending through said tubular member and from both sides thereof, and a spring confined between said pin and closure, and tending to hold said closure on its seat, of a grease pump having a discharge conduit, and means co-acting with the ends of said pin for detachably connecting the discharge end of said conduit with said grease cup.

~~11.~~ The combination with a grease cup comprising a tubular member having a pin extending through said tubular member and from both sides thereof, of a grease pump having a discharge conduit, and means co-acting with the ends of said pin for detachably connecting the discharge end of said conduit with said grease cup.

~~12.~~ The combination with a grease cup having a pin extending from one side thereof, a grease pump having a discharge conduit provided with means for co-acting with said pin to detachably connect the discharge end of said conduit with said grease cup.

~~13.~~ A grease cup comprising a tubular member having screwthreads at one end and having the other end flanged inwardly to provide a closure seat, a closure, a pin extending through said tubular member and on both sides thereof, and a spring confined between said pin and closure and tending to hold said closure on said seat.

~~14.~~ A grease cup comprising a tubular member

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5668

having one end flanged inwardly to provide a closure seat, a closure, a pin extending through said tubular member and on both sides thereof, and a spring confined between said pin and closure and tending to hold said closure on said seat.

~~18.~~ A grease cup comprising a tubular member having one end flanged inwardly to provide a closure seat, a closure, a pin extending inwardly and outwardly from one wall of said tubular member, and a spring confined between the inner end of said pin and said closure to hold said closure on its seat.

~~18.~~ A grease cup having means at one end for permanently securing it to a bearing, and a coupling means at the other end.

~~17.~~ A grease cup having means at one end for securing it to a bearing and a pin at the other end extending through and projecting from one wall thereof.

~~16.~~ A grease pump having a discharge opening in combination with a discharge conduit having a straight coupling member at one end and an L-shaped coupling member at the other end, said couplings and pump being provided with co-acting means for connecting either of said couplings with said pump

19. A grease pump having a discharge openin- and a flexible discharge conduit connected therewith.

30. The combination with a plurality of grease cups of a grease pump, and means for successively detachably connecting the discharge of said pump with each of said grease cups comprising co-acting bayonet coupling members on said pump and cups.

31. The combination with a plurality of grease cups of a grease pump, and means for successively detachably connecting the discharge of said pump with each of said grease cups.

32. The combination with a plurality of members provided with grease receiving apertures, of a grease pump, and means for successively detachably connecting the discharge of said pump with said apertures comprising co-acting bayonet coupling members.

33. The combination with a plurality of members provided with grease receiving apertures, of a grease pump, and means for successively detachably connecting the discharge of said pump with said apertures.

34. The combination with a member provided with a grease receiving aperture, of a grease pump, and means for detachably connecting the discharge of said pump with said aperture.

35. A grease pump having a discharge opening, means for detachably connecting said discharge opening with a grease receiving aperture comprising a bayonet coupling member.

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Plaintiff's Exhibit No. 39.

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26. A grease pump having a discharge opening, and means for detachably connecting said discharge opening with a grease receiving aperture.

27. A grease pump having a bayonet coupling member provided with a discharge passage for said pump.

38. A grease cup having means at one end for permanently securing it to a bearing, and a bayonet coupling means at the other end.

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216 5-86-13

Plaintiff's Exhibit No. 30.

IN WITNESS WHEREOF, I hereunto subscribe my name this 1st day of February, 1918.

Arthur V. Gullberg

WITNESSES:

Geo. Cassleer

Oscar Rehmus

OATH

State of Illinois } ss:
County of Cook }

ARTHUR V. GULLBERG, the above-named petitioner, being duly sworn, deposes and says that he is a citizen of the United States, and resident of Chicago, in the County of Cook and State of Illinois, and that he verily believes himself to be the original, first and sole inventor of the improvement in LUBRICATING APPARATUS (Case 3) described and claimed in the annexed specification; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, or patented or described in any printed publication in the United States of America, or any foreign country before his invention or discovery thereof; or more than two years prior to this application; or in public use or on sale in the United States for more than two years prior to this application; that said invention has not been patented in any country foreign to the United States on an application filed by him or his legal representatives or assigns, more than twelve months prior to this application; and that no application for patent on said improvement has been filed by him or his representatives or assigns in any country foreign to the United States.

Arthur V. Gullberg

Subscribed and sworn to before me this 1st day of February, 1918.

15

E. E. Johnson
Notary Public

216586-14

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Plaintiff's Exhibit No. 39.

Div. 45 Room 879

Paper No. 2

B.W.

DEPARTMENT OF THE INTERIOR

UNITED STATES PATENT OFFICE

WASHINGTON March 20, 1918.

Williams, Bradbury & See,

Monadnock Block,

Chicago, Ill.

PATENT OFFICE MAR 20 1918 MAILED

Please find below a communication from the EXAMINER in charge of the application of

Arthur V. Gullborg, Ser. No. 216,586, filed Feb. 11, 1918,

for Lubricating Apparatus.

James T. Newton

Commissioner of Patents.

Claims 1 to 8 inclusive are substantially met in

Winkley, 1,201,414, Oct. 27, 1915;(184-1)

and are rejected.

Claims 9 and 10 are rejected on

Rampassi, 714,329, Nov. 25, 1902;(184-89)

also on

Richardson, 8,251, July 29, 1851;(184-89),

(which shows the closure and spring are old)in connection with Winkley above cited and

Reimund, 863,878, Aug. 20, 1907;(184-88)

Reimund shows the bayonet point is old, also the pin extending from the tubular member.

Claims 11 and 12 are rejected on the same reference cited against claim 1.

Claims 13 and 14 are rejected on Winkley in connection with Reimund, et al, both cited above.

Claim 15 is rejected on Rampassi or Richardson both previously cited in connection with

Marks, et al, 249,194, Nov. 8, 1881;(184-89).

16 216586 18

Plaintiff's Exhibit No. 39.

Ser. No. 216,586----2.

Claims 16, 18, 19, 20, 21, 23, 24 and 26 are rejected on Winkley previously cited.

Claim 17 is rejected on Reimund, et al, in connection with Marks, both cited above.

Claims 22, 25, 27 and 28 are rejected on Winkley in connection with Reimund, et al, previously cited.

L. S. Underwood

Examiner.

11

CC

Marks

216,596-16

250
Plaintiff's Exhibit No. 39.

#3

a

U. S. P. [illegible] JUN 25 1918 Divis[illegible]

UNITED STATES PATENT OFFICE

Applicant - Arthur V. Gullberg — Class 2.
Invention - Lubricating Apparatus — Group 870 Art. 46
Serial No. - 218,586 — Filed February 11, 1918.

1315 Monadnock Block,
Chicago, Ill., June 22, 1918.

Hon. Commissioner of Patents,
Washington, D. C.

Sir:

In the matter of the above entitled application and in response to Official Action, dated March 20, 1918, applicant amends as follows:

Cancel claims 5 to 8 inclusive, claims 16, 19, 21, 23, 24, 26, and 28, and renumber the remaining claims as 1 to 17 inclusive.

N O T E :

The above amendments have been made in an endeavor to place this application in condition for allowance. The references cited by the Examiner have been carefully considered and certain claims cancelled in view thereof. It is thought, however, that the claims retained recite structures which are patentable over those disclosed by any of the references.

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216586-17

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Plaintiff's Exhibit No. 39.

Claims 1, 2, 3, and 4, which are rejected upon the patent to Winkley, all bring out more or less in detail the construction of the applicant's device which permits either end of the discharge conduit to be connected with either the pump or the grease cups. In the Winkley structure no corresponding construction is found. In practice the Winkley structure would be at a disadvantage for the reason that it would be impossible to reach many of the elements corresponding to the applicant's grease cup where these elements are located in many of the inaccessible positions upon motor vehicle structures. By the applicant's construction means are p[illegible] which access to the grease cups may be obtained from a plurality of different directions and by a plurality of different movements. No similar structure is found in Winkley and in view of the advantages of the applicant's structure it is believed that these claims should be allowed in the absence of any more pertinent art.

Claims 5 and 6, formerly claims 9 and 10, are rejected upon the patents to Rampazzi, Richardson, and Weimund. These claims are directed to the details of the structure of the applicant's grease cup and include broadly the grease pump. In the structure set forth by these claims the pin serves a double function, namely, it provides a support for one end of the spring which closes the closure of the grease cup, and also provides means whereby the discharge conduit of the grease cup may be detachably connected with the grease cup. None of the references discloses a similar combination, nor do they suggest such a combination. It is a fundamental proposition of patent law that a claim for a new combination can only be anticipated by a reference disclosing a substantially similar combination functioning in substantially the same manner to produce substantially the same result. None of the references cited against these claims rea-

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Plaintiff's Exhibit No. 39.

pond to this criterion, nor would this combination be suggested to a mechanic ordinarily skilled in this art or to anybody else by the references relied upon to anticipate these claims. Furthermore, it is not clear to counsel for applicant in what manner the different structures disclosed by these references could be combined to produce the structure set forth in these claims. In the event that the Examiner still insists upon the rejection he is respectfully requested to point out how these structures could be modified in view of each other to produce the structure recited in these claims.

Reconsideration of claims 7 and 8, formerly claims 11 and 12, is respectfully requested for the reasons recited above in connection with claims 1 to 4 inclusive.

The rejection of claims 9 and 10, formerly claims 13 and 14 upon Winkley in connection with Reimund is not understood. These claims do not include the grease pump and the situation of Winkley in connection therewith is not understood. While the patent to Reimund does disclose pins extending from opposite sides of the coupling member of the oil cup this patent does not disclose a spring pressed closure and consequently does not disclose a structure in which the pins co-act with this closure in the manner in which the pins co-act with the closure of the applicant's structure. These claims do set forth a combination not disclosed by any of the references cited by the Examiner and are, therefore, thought to be allowable.

Allowance of Claim 11, former claim 15, is respectfully requested. The patent to Marr, while disclosing a pin for supporting one end of the spring, the other end of which supports a closure for a lubricating device does not suggest the use of this same pin as a coupling member and since the patent to Reimund, discussed above, does not disclose a spring

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Plaintiff's Exhibit No. 39.

pressed closure in which one end of the spring is supported by the pins of that structure it is believed that the possibility of uniting certain features of these two different structures to produce that claimed by the applicant becomes apparent only after the applicant's structure has suggested this combination. Neither of these references discloses the combination and this claim is, therefore, believed to be patentable.

Reconsideration of claim 12 is requested for the reasons recited in connection with claim 11.

Claim 18 is rejected upon the patent to Winkley, but Winkley does not disclose a discharge conduit having a straight coupling member at one end and an "L" shaped coupling member at the other end, either of which may be connected with the pump.

Claims/14, 15, 16, and 17 are believed to be patentable for the reason that they include the bayonet coupling means between the pump and the grease cup. This coupling means is superior to that disclosed by Winkley for the reason that it will permit access to grease cups located in positions which would be inaccessible with the connecting means disclosed by Winkley. With this means the only motion necessary for connecting the coupling member with the grease cup is one about the axis of the grease cup and does not require a movement in both directions transversely of the grease cup as does the structure disclosed by Winkley.

Allowance of this application as amended is respectfully requested.

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ARTHUR M. CULLBERG,

By Williams, Bradbury & Ike

Attorneys.

-4- 216586-20

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Plaintiff's Exhibit No. 39.

Div. 46. Room 879

"The Commissioner of Patents, Washington, D. C.," and not any official by name.

S-260

Paper No. 4

All communications respecting this application should give the serial number, date of filing, title of invention, and name of the applicant.

B:W

DEPARTMENT OF THE INTERIOR

UNITED STATES PATENT OFFICE

WASHINGTON July 22, 1918.

Williams, Bradbury & Seo,

Monadnock Block,

Chicago, Ill.

PATENT OFFICE JUL 22 1918 MAILED

Please find below a communication from the EXAMINER in charge of the application of

Arthur V. Gullborg, Serial No. 216,586, filed Feb. 11, 1918, for Lubricating Apparatus.

James T. Newton

Commissioner of Patents.

S-261

In response to amendments filed June 24, 1918.

Claims 1 to 4 inclusive are rejected on Winkley, of record, in connection with

DeGrey, 1,017,654, Feb. 20, 1912; (184-105)

It would not be considered invention to make both ends of the flexible tube of DeGrey the same.

Claims 7, 8, 9, 12, 13, 14 to 17 inclusive are rejected on the same references cited against claim 1. It would not be considered invention to have a pin extend through the coupling in DeGrey's device so as to form the joint.

Claims 5, 6 and 10 are, as at present advised, allowable.

Examiner.

216586-21

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Plaintiff's Exhibit No. 39.

MAIL ROOM AUG 23 1918 PATENT OFFICE

Letter

U. S. Pat. AUG 27 1918 DIVISION 45

UNITED STATES PATENT OFFICE

Applicant - Arthur V. Gullborg — Case No. 2

Invention - Lubricating apparatus — Room 379 Div. 45

Serial No. 216,586 — Filed Feb. 11, 1918.

1315 Monadnock Block,

Chicago, Ill., Aug. 23, 1918.

Hon. Commissioner of Patents,

Washington, D. C.

Sir:

In the matter of the above entitled application, and in response to official action, Paper No. 4, dated July 22, 1918, applicant submits the following:-

NOTE:

The patent to DeGrey has been carefully considered, but counsel for applicant is unable to see wherein this patent discloses a structure which is relative in any sense to the claims under rejection. The patent to DeGrey discloses what is described as a safety connection for gas fixtures, and is merely a flexible conduit for connecting a wall fixture with a gas consuming device, the conduit being provided at each end with a coupling means including a bayonet joint. If this patent is merely cited to disclose a bayonet joint, its citation was unnecessary, as bayonet joints are known by the applicant to be old, even in connection with various sorts of conduits.

The citation of this patent for any other purpose is unwarranted for the reason that it is drawn from an entirely non-analogous art. The applicant's invention is concerned with a pressure means for delivering a lubricant to a bearing under high pressure, including means whereby the pump of

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Plaintiff's Exhibit No. 39.

his invention can be easily and quickly connected to and disconnected from a novel type of grease receptacle or couplingmember, the two couplings being of such a nature as to prevent the escape of grease, and of such construction as to provide means for supplying lubricants to inaccessible points in machinery.

The problems solved by the applicant and by DeGrey are entirely different. Anybody assuming to make means or apparatus of the type to which the applicant's invention relates would hardly expect to find this means in a class including a flexible conduit for connecting a wall fixture with a gas-consuming device. Furthermore, it is not believed likely that the examiner will contend that DeGrey would in any way suggest the applicant's structure or a structure having the functions of the applicant's structure. Furthermore, DeGrey's structure could not be used for the applicant's apparatus. Taking the coupling shown in Figure 3, if it should be attempted to use such a coupling member for the applicant's apparatus, grease would collect in the outer end of the coupling - that is, in that portion of the coupling whichextends beyond the sealing disc 37 - and upon uncoupling the two coupling members, it would run out and be a nuisance. To attach the DeGrey structure to the applicant's apparatus, it would require certain modifications and alteration which would not only destroy its identity, but would render it inoperative for the purpose for which it was designed. In this connection, attention is called to the decisions of the Supreme Court - Hobbs v. Beach, 180 U. S. 383, and Potts v. Creager, 155 U. S. 597, in which it was held that but very slight alterations in structure disclosed by one art were sufficient to sustain the validity of patents in structures designed for an entirely

non-analogous purpose. The same rule should be applied in this case, and the patent to DeGrey withdrawn as a reference.

Counsel for applicant is further unable to find in DeGrey any coupling member having a straight coupling at one end and an L-shaped coupling at the other end which can be interchangeably connected with two other couplings. The couplings disclosed by DeGrey cannot be interchangeably connected with either the wall or the consuming device.

While claims 15, 16 and 17 are directed somewhat broadly to the use of bayonet couplings for connecting the discharge conduit of the grease pump with the pump and the coupling member secured to the part to be lubricated, it is still believed that these claims present patentable subject matter, for the reason that this connection is particularly advantageous for the applicant's purpose, in that it permits the coupling members to be connected and disconnected with a minimum amount of movement, and can thus be used where the portions or parts to be lubricated are so inaccessible that coupling members of a different type could not be employed.

Allowance of this application is for the above reasons respectfully requested.

Respectfully,

ARTHUR V. GULLBORG,

By Williamson, Bradbury & Lee

Attorneys

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216586-34

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Plaintiff's Exhibit No. 39.

Div. 46 Room 778

Address only "The Commissioner of Patents, Washington, D. C.," and not any official by name.

2-260

Paper No. 6

All communications relating this application should give the serial number, date of filing, title of invention, and name of the applicant.

DEPARTMENT OF THE INTERIOR

UNITED STATES PATENT OFFICE

B-W

WASHINGTON Oct. 7, 1918.

Williams, Bradbury & See,

Monadnock Block,

Chicago, Ill.

Please find below a communication from the ***EXAMINER*** *in charge of the application of*

Arthur V. Gullborg, Serial No. 216,586, filed Feb. 11, 1918.

for Lubricating Apparatus.

James T. Newton

Commissioner of Patents

In response to communication filed August 24, 1918.

The action of July 22, 1918, is repeated.

Winkley of record shows a connection between a given gear and the bearing. To make this connection the same as applicant and duplicate on both ends would not be considered invention, as a connection like applicant's is shown as old in DeGrey of record.

Examiner.

216586-25

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Plaintiff's Exhibit No. 39.

#1. 13

U. S.

UNITED STATES PATENT OFFICE

Applicant - Arthur V. Gullberg — Case 2

Invention - Lubricating Apparatus — Room 379 Div. 45

Serial No. 216,586 — Filed Feb. 11, 1918

1315 Monadnock Block,

Chicago, February 6, 1919

Hon. Commissioner of Patents,

Washington, D. C.

Sir:

Please amend by canceling claims 14 and 15, renumbering the remaining claims as 14 and 15, and adding the following claim:

16. The combination with a grease cup having a substantially cylindrical portion, of a grease pump having a coupling member provided with a substantially cylindrical bore adapted to receive said cylindrical portion of said grease cup, co-acting means on said grease cup and coupling member for detachably holding them together, and a gasket carried by said coupling member for sealing the joint between said grease cup and said coupling member.

REMARKS:

The above amendments have been made in an endeavor to place this application in condition for allowance.

During a recent oral interview with the examiner having charge of this application, the various advantages

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Plaintiff's Exhibit No. 39.

of the applicant's construction over that disclosed by Winkley were pointed out, as well as the differences between the applicant's structure and that of Winkley.

Winkley perceived the necessity for providing means for forming a tight joint between his grease cup and the nozzle of the grease gun, which would prevent the lubricant, even under high pressure, from escaping between these two members. While the means which he discloses for this purpose is operable, it is costly to manufacture and more or less inconvenient to manipulate, especially where the grease cups are located in close proximity to portions of the apparatus to which they are connected, this being due to the fact that it requires a movement transversely of the grease cup in two different directions in order to attach the nozzle to the grease cup. While Winkley's connecting means is operable and would function properly, it requires too much room for its manipulation.

The applicant, while not aware of the Winkley patent when he filed his application, nevertheless perceived the necessity for providing some sort of means for securing the discharge nozzle to the grease cup with a tight joint, which would be of such a nature as to permit these two members to be secured together by a minimum amount of movement of these members relatively to each other. At the same time he perceived that in order to make his device a commercial success, this means would necessarily have to be such that it could be cheaply manufactured and at the same time provide a perfect seal between the nozzle and the grease cup.

It would have been a comparatively simple matter for him to provide means which would perform this function, but, as is usual, the most obvious means for doing this

were the most complicated. As evidence of this fact, attention is called to the Winkley construction, which, counsel for applicant has been informed by Mr. Winkley, required the expenditure of a great amount of time and thought in its construction. Furthermore, Mr. Winkley is a skilled engineer and mechanic. All of these things clearly point to the fact that the applicant's construction or means for accomplishing results which he desired were not obvious. The examiner has been unable to cite any patents from the art to which the applicant's invention relates showing structures that in any way approximate that which the applicant has disclosed and which he is now claiming. In order to anticipate the claims, the examiner has found it necessary to combine the disclosures in two different patents, one of which - namely, the patent to Winkley - relates to the same art as the applicant's construction, and the other of which - namely, the patent to DeOrey - is drawn from an entirely different art. The construction shown by DeOrey not only relates to a different art, but was designed for an entirely different purpose from that for which the applicant's was designed, and could not be used for the applicant's purpose.

One of the principles of patent law most frequently enunciated by the various tribunals dealing with these laws is that a new combination of elements functioning in a novel manner to produce a useful result can be anticipated only by a similar combination functioning in a similar manner to produce this result or a similar result. It is believed that the citation of authorities to support this statement is unnecessary. The examiner, by combining the two references, has tacitly admitted that neither of

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Plaintiff's Exhibit No. 39.

of them discloses the combination recited in the claims under rejection. The rejection is, therefore fundamentally weak.

The rejection is also weak because it relies upon a reference drawn from an entirely non-analogous art. The recent decisions of the various Federal courts apparently disclose an unwillingness on the part of these courts to destroy the protection upon a meritorious invention by relying upon patents or devices drawn from arts which are remote from that to which the patented devices relate. Some of these decisions reject patents or devices drawn from what appear to the casual observer to be quite similar or analogous arts.

In Rousso v. City Towel Supply Co., 242 F. 855, the court held that there was no analogy between a towel cabinet and a bill file, although the constructions in these two similar articles were very similar, and the functions of the two different structures were quite analogous.

In Wm. Thropp et al. v. Woven Tire Co., 226 F. 941, the court held that a machine for wrapping an annulus was not a proper anticipation of a machine for wrapping an automobile tire, although the constructions were very similar.

In Rembusch v. Bernethum, 214 F. 257, it was held that a screen for exhibiting moving pictures, consisting of a sheet of glass having its back silvered and its front upon which the pictures are thrown, ground or frosted, was not anticipated by the use in the sign art of mirrors having letters or designs etched or ground on their front.

In General Elec. Co. v. City of Dunkirk et al.,

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211 F. 858, the court held that the use of tenons for securing cover strips to the buckets of a turbine was n anticipated by the prior use of a similar construction in propeller wheels and in vehicle wheels.

Similarly in Weber Elec. Co. v. Electric Fix Co., 212 F. 948, the court held that there was no anal between a cover for a paint can and a fixture for an electric light.

See also the decisions in

Benjamin Card Co. v. Rand, McNally & Co., 210 F. Imperial Brass Co. v. Nelson, 203 F. 484; Elec. Co. v. Westinghouse Mfg. Co., 171 F. 83; and Seeger Refrigerating Co. v. American Foundry Co., 171 F. 416.

In view of this almost universal disposition the part of courts to confine the alleged anticipating structures to the art to which the patentee's invention relates, or at least to those arts which are very clear analogous thereto, and in view of the fact that the cou are the final arbiters of the protection to which a pat is entitled, it is respectfully submitted that the Pate Office in examining patent applications should apply si ilar rules to determine the relevancy or non-relevancy of a patent or other alleged anticipating device. It i believed that if the applicant is accorded a similar co sideration, the patent to DeGrey will be withdrawn as a reference in this application, and that in the ab- sence of any more pertinent art relating to devices similar to that to which this application is directed, claims of this application will now be found allowable.

It is believed to be unnecessary to discuss the claims in detail, as most of the claims are limited to a construction involving a bayonet coupling member.

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If the patent to DeGrey is withdrawn as a reference and no corresponding anticipation is found in the lubricating art, the claims will undoubtedly be allowed.

A new claim has been added, which is directed to some of the details of the applicant's construction, including the gasket which the applicant uses for sealing the joint between the nozzle and the grease cup. No similar construction is found in either of the references, and this claim should also be allowed.

Allowance of this application as amended is respectfully requested.

Respectfully,

ARTHUR V. GULLBORG,

By Williams Bradbury & Lee
Attorneys.

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Plaintiff's Exhibit No. 39.

Serial No. 216,586 Room 879
Address only
"The Commissioner of Patents,
Washington, D. C.,"
and not any official by name.

Paper No. 8
All communications respecting the application should give the serial number, date of filing, title of invention, and name of the applicant.

DEPARTMENT OF THE INTERIOR
UNITED STATES PATENT OFFICE
WASHINGTON

B-W

March 10, 1919.

Williams, Bradbury & See,
Monadnock Block,
Chicago, Ill.

MAR 1919

Please find below a communication from the EXAMINER in charge of the application of Arthur V. Gullberg, Serial No. 216,586, filed Feb. 11, 1918, for Lubricating Apparatus.

James T. Newton
Commissioner of Patents

Amended Feb. 10, 1919.

Claims ~~4~~ and ~~6~~ Canceled are rejected on

MacClyment, 937,682, Oct. 19, 1909; (184-105).

This patent has a conduit which may be flexed and attached to the grease gun and receptacle by a screw joint coupling which is certainly interchangeable as the pipe has a screw joint at the end evidently the same size.

Considering claims ~~4~~ and 6 as covering merely an interchangeable pipe coupling joint, the patent to DeGrey, of record, is held to met these claims.

Claims 7, 8 and 12 are rejected on the patent to DeGrey and on Reimund, et al, of record. Merely the extension of the pin through the element is held not to be patentable.

Claims 14 and 15 are rejected on

Brown, 1,141,101, June 1, 1915; (184-89)

and on the German patent to

Bitter, 6,118, Nov. 10, 1878; (184-45).

Claim 16 is rejected on Brown, cited above. Gaskets in

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Plaintiff's Exhibit No. 39.

Serial No. 216,586-----2.

connection with bayonet couplings are old in the art as shown in DeGrey of record.

Examiner.

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Plaintiff's Exhibit No. 39.

U. S. Patent Office
MAR 20 1919
DIVISION 45

MAR 20 1919
APPLICATION DIV.
PATENT OFFICE

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UNITED STATES PATENT OFFICE

Applicant - Arthur V. Cullborg — Case 2

Invention - Lubricating Apparatus — Room 379 Div. 45

Serial N. - 216,586 — Filed Feb. 11, 1918

Hon. Commissioner of Patents,

Washington, D. C.

Sir:

Please amend as follows:

Claim 13, line 1, cancel "discharge opening" and substitute therefor --flexible discharge conduit--; line 3, cancel "opening" and substitute --conduit--.

note

Cancel claims 3, 4, 15 and 16 and renumber the claims.

Add the following claims:

13. The combination with a grease gun having a discharge conduit, of means for connecting said conduit with a bearing comprising a tubular member, coacting means on said conduit and said tubular member for detachably connecting said conduit and tubular member, and a flexible member for sealing the joint between said conduit and said tubular member, said flexible member having an aperture for the passage of lubricant from said conduit to said tubular member, a portion of one face of said flexible member being positioned so as to be subjected to any pressure created in said conduit to force it against said tubular member.

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14. The combination with means for supplying lubricant under pressure comprising a discharge member, of means for connecting said discharge member to a bearing

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Plaintiff's Exhibit No. 39.

comprising a tubular member, and means for detachably connecting said members in sealed relation comprising means subjected to the pressure created in said members, the said means being positioned between said members and held against one of said members by said pressure.

10. The combination with a member for receiving lubricant, of means for supplying lubricant thereto under pressure comprising a tubular member, means for detachably connecting said tubular member to said lubricant receiving member in sealed relation comprising a flexible member provided with an aperture for the passage of lubricant, one face of said member being subjected to the pressure of the lubricant.

REMARKS

The above amendments have been made in view of an oral interview had with the Principal Examiner and the Assistant Examiner having charge of this application and in an endeavor to place this application in condition for immediate allowance certain of the claims have been canceled as it is believed that the remaining claims sufficiently cover the subject-matter of the rejected claims.

Reconsideration of claims 5, 6 and 10 is respectfully requested. These claims relate to the specific means which the applicant employs for connecting the coupling member of his grease gun with the coupling member attached to the bearing to be lubricated. Neither of the references disclose a combination similar to that set forth in claims 5 and 6, nor a grease cup responding to the terms of claim 10. The patent to DeGrey is drawn from an entirely non-analogous art and should, for that reason, be withdrawn as a reference. In the argument accompanying the last amendment counsel for applicant referred to a number of

court decisions showing that it is the general practice of the Federal Courts to exclude as anticipations any devices which were not designed nor intended to be used nor adapted to be used for the purpose for which the patentee's structure was designed, intended and adapted to be used and especially so where it was shown that the patentee's device had found instant favor and gone into extensive use. It might be stated in connection with this application that the applicant's construction has been upon the market but a short time, substantially one year, and during that time 25,000 sets of equipment have been sold, each set including a grease gun and a plurality of grease cups or coupling members, usually about 30 in number. These devices have substantially all been applied to automobiles. At the present time several large manufacturers of automobiles and trucks have standardized the applicant's devices and a number of other automobile manufacturers have signified that they will also standardize this equipment for their machines.

It appears to counsel that the above facts are sufficient evidence of invention in the applicant's construction. The instant favor with which it has been received indicates that it possesses great merit and it is respectfully submitted that if this construction was obvious and possessed such great merit it would have been adopted long ago. While the construction is simple and the combination does involve elements which are old in many arts and relations, it appears that the applicant has selected and combined those elements which have resulted in a commercial structure. While certain patents disclose applicant's broad combination, such as the patent to MacClyment and other patents cited at the oral inter-

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Plaintiff's Exhibit No. 39.

view above referred to, these devices have not attracted the attention of manufacturers. A consideration of the construction of these devices explains the cause of this condition. They were not practical and they were not a commercial possibility. The applicant's device is not only extremely practical and serviceable but it is a commercial article as well. As stated above, if this construction was obvious from the devices disclosed in the references cited by the Examiner it seems clear that it would have been placed in use long ago.

The patent to Reimund et al. relates to a grease cup having a cover which is secured to the grease cup by means of a bayonet coupling. In this construction the pins are secured to the grease cup by being inserted in openings on opposite sides of the cup. To manufacture such a device two drilling operations would be required, two pins must be made and two separate operations performed to insert the pins in the openings. In the applicant's construction the opening for receiving the pin can be performed by a single drilling operation and the pin can be inserted by a single operation. The cost in construction is, therefore, materially reduced and it is believed that for this reason alone this claim recites patentable subject-matter.

Claim 13 is directed to the same subject-matter as claims 5, 6 and 10 and it is thought to be patentable for the same reasons.

Three new claims have been submitted all of which are directed to that feature of the applicant's construction by means of which the joint or connection between the coupling member connected to the end of the discharge conduit and the coupling member secured to the bearing is

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Plaintiff's Exhibit No. 39.

sealed or made fluid-tight against the pressure employed. It will be noted that the opening in the gasket which is positioned in the coupling member secured to the end of the discharge conduit is smaller in diameter than the adjacent opening in the coupling member, thereby leaving a portion of the inner surface of the gasket exposed to the pressure of the lubricant. This pressure tends to force the gasket against the end of the coupling member secured to the bearing and the pressure of the lubricant itself is thus utilized for sealing the joint or connection between the two coupling members. None of the references cited during the prosecution of this application disclose a construction in which the pressure of the lubricant itself is used to secure a tight connection between the two elements which must be joined. In the patent to Mac Clyment a screw-thread connection is employed. Such a connection is impractical for the reason that it requires too much time to make the connection. The threaded portions of the connected members must be of considerable length in order to insure a fluid-tight connection and the screw threads themselves are liable to become damaged and rendered useless by coming into contact with other objects, it being common practice to keep grease guns and other similar devices in tool-boxes where they are subjected to blows from other tools.

In the patent to Brown no means corresponding to the applicant's gasket is employed and in order to insure a fluid-tight connection between the grease gun, to which he refers as being disclosed in his patent No. 1,027,588, and his grease cup it will be necessary to accurately grind not only the contacting surfaces of the parts which actually convey the lubricant but also those parts which

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form the means for establishing the mechanical connection between the grease cup and the grease gun. This method of construction would be too costly to permit the device to be commercially exploited.

The German patent to Bitter discloses no means whatever for establishing a tight joint capable of withstanding high pressures between the discharge conduit of the grease cup and the grease cup.

Allowance of this application is, for the above reasons, respectfully requested.

Respectful..

ARTHUR V. GULLBORG

By Williams, Bradbury & Lee
Attorneys.

Washington, D. C.,
March 20, 1919

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Plaintiff's Exhibit No. 39.

Div. 48 Room 279

Paper No. 10

DEPARTMENT OF THE INTERIOR

B-W

UNITED STATES PATENT OFFICE

WASHINGTON March 24, 1919.

Williams, Bradbury & Soe,

Monadnock Block,

Chicago, Ill.

Please find below a communication from the EXAMINER in charge of the application of

Arthur V. Gullborg, Serial No. 216,586, filed Feb. 11, 1918,

for Lubricating Apparatus.

James T. Newton

Commissioner of Patents

Amended March 20, 1919.

Claims 5, 6, 10 and 12 are finally rejected for the reasons and references of record.

Claims 1 to 4 inclusive, 7, 8, 9, 11, 13 to 15 inclusive are, as at present advised, allowable.

Examiner.

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Plaintiff's Exhibit No. 39.

#11
D.

APR 12 1919 PATENT OFFICE

U. S. Patent
APR 14 1919
DIVISION 4

UNITED STATES PATENT OFFICE

Applicant - Arthur V. Gullborg — Case B

Invention - Lubricating Apparatus — Div. 45 Room 578

Serial No. - 216,586 — Filed February 11, 1918.

1315 Monadnock Block,
Chicago, April 10, 1919.

Hon. Commissioner of Patents,
Washington, D. C.

Sir:

In the matter of the above entitled application and in response to Official Action, Paper No. 10, dated March 28, 1919, applicant amends as follows:

/ Cancel claims 5, 8, 10, and 13, and renumber the remaining claims.

REMARKS:

The above amendment cancels all of the rejected claims in this application and apparently places it in condition for allowance, which is respectfully requested.

Inasmuch as the applicant is desirous of having this application issued as a patent at the earliest possible moment, it will be greatly appreciated if this application is passed to issue at once.

Respectfully,
ARTHUR V. GULLBORG,
By Williams, Bradbury & Co.
Attorneys.

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2165-86-41

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Plaintiff's Exhibit No. 39.

073

DEPARTMENT OF THE INTERIOR

UNITED STATES PATENT OFFICE

WASHINGTON

May 8, 1919

Petition:

Application of A. V. Gullborg

Serial No. 216586

Invention:

This petition is referred to the Examiner in charge of Division 45 for recommendation.

In case he recommends adversely he will state his reasons therefor and furnish a copy thereof to petitioner.

42 J. S. Newton

Commissioner of Patents.

216586-42

Plaintiff's Exhibit No. 39.

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Amendment B Rule 78

UNITED STATES PATENT OFFICE

Applicant - Arthur V. Gullborg — Case 2

Invention - Lubricating Apparatus — Div. 46 Room 379

Serial No. - 216,586 — Filed February 11, 1918

1315 Monadnock Block
Chicago, April 30, 1919

Hon. Commissioner of Patents
Washington, D. C.

Sir:

In the matter of the above entitled application and in response to Official Action, Paper No. 10, dated March 26, 1919, applicant amends as follows:

Cancel claims 3, 4, 9, 10 and 11, and renumber the remaining claims 1 to 8 inclusive.

NOTE:

The claims cancelled by this amendment are directed to substantially the same subject matter as certain claim filed and allowed in the co-pending application of the applicant, Serial No. 267,858, filed December 21, 1915, and in order to avoid any question of double patenting these claims have, by an amendment of even date, been transferred to this application.

Respectfully submitted,

43. ARTHUR V. GULLBORG,

By Williamson Brady & Co.

216586-43 Attorneys.

Plaintiff's Exhibit No. 39.

Part of #12

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE,
Washington, D. C., May 12, 1919.

In re application
Arthur V. Gullborg,
Serial No. 216,586,
Filed Feb. 11, 1918,
Allowed April 19. 1919,
Lubricating Apparatus.

Hon. Commissioner of Patents,

Sir:

The accompanying amendment submitted under provisions of Rule 78 cancels certain claims in the application to be presented in a copending application in order to avoid double patenting. It is recommended that the amendment be entered.

The final fee has not been paid.

Respectfully,

Examiner, Division 45.

APPROVED:

MAY 12 1919

Assistant Commissioner

44

216586-44

Plaintiff's Exhibit No. 39.

210 ADDRESS ONLY THE COMMISSIONER OF PATENTS WASHINGTON, D. C.

Letter No. 13

DEPARTMENT OF THE INTERIOR
UNITED STATES PATENT OFFICE
WASHINGTON

May 14, 1919.

In the matter of the Application of Arthur W. Gullborg Lubricating Apparatus; Filed Feb. 11, 1918 Serial No. 216,586. } Amendment.

Sir:

You are hereby informed that the recommendation of the examiner that the amendment be admitted under the provisions of Rule 78, has been approved by the First Assistant Commissioner and the amendment entered.

By direction of the Commissioner:

Very respectfully,

M. H. Coulston,

Chief Clerk.

F.

Arthur V. Gullborg,
c/o Williams, Bradbury & See
Monadnock Block
Chicago, Ill.

45

216586-45

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Plaintiff's Exhibit No. 39.

(45) Paper No. 14

Rm 379

WILLIAM BRADBURY & SEE
ATTORNEYS AND COUNSELORS
PATENT AND TRADE MARK CAUSES
315 MONADNOCK BLOCK
CHICAGO

May 26, 1919

Hon. Commissioner of Patents
Washington, D. C.

Sir:

Will you kindly permit the Misses Parkins to withdraw from the Patent Office files the application of Arthur V. Gullborg, serial No. 216,586, filed February 11, 1918, for the purpose of preparing certified copies thereof?

Respectfully,

William Bradbury & See

216586-46

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Plaintiff's Exhibit No. 39.

ADDRESS ONLY THE COMMISSIONER OF PATENTS, WASHINGTON, D. C.

2-181 Serial No. 216,886

DEPARTMENT OF THE INTERIOR.

UNITED STATES PATENT OFFICE

WASHINGTON April 19, 1919.

Arthur V. Gullberg

Sir: Your APPLICATION for a patent for an IMPROVEMENT in

Lubricating Apparatus

filed Feb. 11, 1918, has been examined and ALLOWED.

The final fee, TWENTY DOLLARS, must be paid not later than SIX MONTHS from the date of this present notice of allowance. If the final fee be not paid within that period, the patent on this application will be withheld, unless renewed with an additional fee of $15, under the provisions of Section 4897, Revised Statutes.

The office delivers patents upon the day of their date, and on which their term begins to run. The printing, photolithographing, and engrossing of the several patent parts, preparatory to final signing and sealing, will require about four weeks, and such work will not be undertaken until after payment of the necessary fee.

When you send the final fee you will also send, DISTINCTLY AND PLAINLY WRITTEN, the name of the INVENTOR, TITLE OF INVENTION AND SERIAL NUMBER AS ABOVE GIVEN, DATE OF ALLOWANCE (which is the date of this circular), DATE OF FILING, and, if assigned, the NAMES OF THE ASSIGNEES.

If you desire to have the patent issue to ASSIGNEES, an assignment containing a REQUEST to that effect, together with the FEE for recording the same, must be filed in this office on or before the date of payment of final fee.

After issue of the patent uncertified copies of the drawings and specifications may be purchased at the price of FIVE CENTS EACH. The money should accompany the order. Postage stamps will not be received.

Final fees will NOT be received from other than the applicant, his assignee or attorney, or a party in interest as shown by the records of the Patent Office.

Respectfully,

James T. Newton

Commissioner of Patents.

Williams, Bradbury & Sea,

Monadnock Block,

Chicago, Ill.

47 2166-E6-47

IN REMITTING THE FINAL FEE GIVE THE SERIAL NUMBER AT THE HEAD OF THIS NOTICE.

UNCERTIFIED CHECKS WILL NOT BE ACCEPTED.

Plaintiff's Exhibit No. 39.

WILLIAMS, BRADBURY & SEE
ATTORNEYS AND COUNSELORS
PATENT AND TRADE MARK CAUSES
1213 HOMAN BLOCK
CHICAGO

RECEIVED
MAY 28 1919
U.S. PAT. OFFICE

May 1, 1919.

Hon. Commissioner of Patents,
Washington. D. C.

S i r:,

Enclosed herewith please find Mr. Williams' check for $20.00, in payment of the final ornament fee on the patent application of Arthur V. [illegible]rg Serial No. 216,586, filed February 11, 1918, allowed April 19, 1919, covering an improvement in Lubricating Apparatus.

Respectfully,

Williams Bradbury, See

Enclosure.

48

216586-48

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Plaintiff's Exhibit No. 39.

A. V. GULLBORG.

LUBRICATING APPARATUS.

APPLICATION FILED FEB. 11, 1918.

1,307,733.

Patented June 24, 1919.

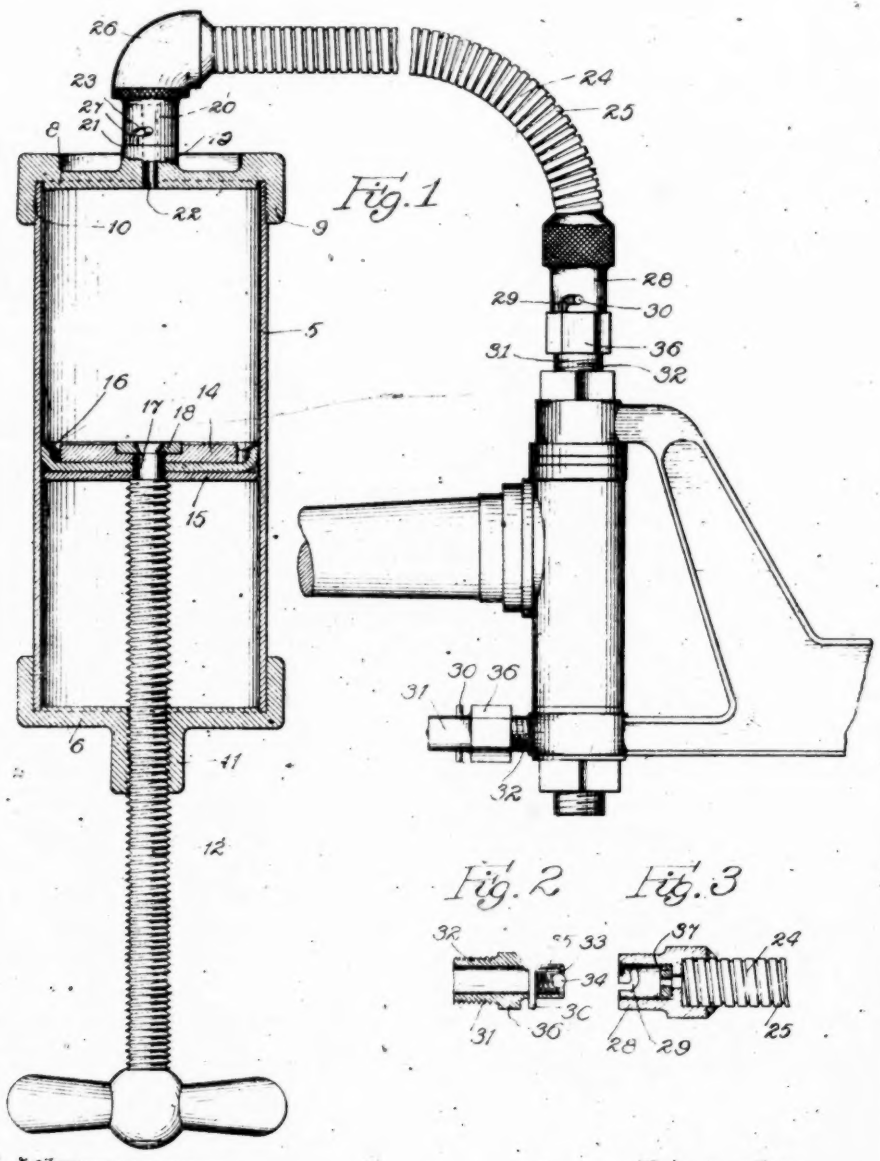

Fig. 1

Fig. 2

Fig. 3

Witnesses:
Andrew Wintercorn
Earl F. Pierce

Inventor:
Arthur V. Gullborg
By Williams Bradbury & Lee
Attys.

283

Plaintiff's Exhibit No. 39.

UNITED STATES PATENT OFFICE.

ARTHUR V. GULLBORG, OF CHICAGO, ILLINOIS.

LUBRICATING APPARATUS.

1,307,733. Specification of Letters Patent. Patented June 24, 1919.

Application filed February 11, 1918. Serial No. 216,886.

To all whom it may concern:

Be it known that I, ARTHUR V. GULLBORG, a citizen of the United States, residing at Chicago, in the county of Cook and State of Illinois, have invented a certain new and useful Improvement in Lubricating Apparatus, of which the following is a full, clear, concise, and exact description, reference being had to the accompanying drawings, forming a part of this specification.

This invention relates to lubricating apparatus and is particularly concerned with the provision of means for supplying lubricating grease to bearings which are more or less inaccessible. One object of my invention is to provide means of the character described comprising a novel grease pump which cooperates with a grease cup of novel construction to entirely fill the grease cup without wasting any of the lubricating grease. Another object of my invention is to provide a grease pump having a flexible discharge conduit. A still further object of my invention is to provide a grease pump having a flexible discharge conduit provided with means for interchangeably locking either end thereof to said grease pump or to the grease cups which are being filled by the grease pump, and a still further object is to provide a flexible discharge conduit for my improved grease pump one end of said conduit being provided with a straight coupling and the other end thereof being provided with an L-shaped coupling, whereby, by the use of either one or the other of these couplings it is possible to obtain access to grease cups in comparatively inaccessible places. Other objects, adaptabilities, and capabilities will appear as the description progresses, reference being had to the accompanying drawings, in which—

Figure 1 illustrates my improved grease pump supplying grease to one of my novel grease cups, the grease pump being shown partially in longitudinal section. In this view my improved grease cups are shown applied to a steering knuckle of an automobile;

Fig. 2 is a longitudinal section through my improved grease cup; and

Fig. 3 is a longitudinal section through one of the coupling members.

Referring to the drawings, the reference character 5 indicates the barrel of my improved grease pump, one end of which is closed by a head 6, which may be soldered or otherwise secured to the end of the barrel. The opposite end of the barrel is closed by the head 8, which has an internally threaded flange 9 for receiving the external threads 10 on the end of the barrel. The head 6 is provided with a central boss 11, which is provided with a screwthreaded bore for receiving the screwthreaded piston rod 12. The rod 12 is provided with a handle 13 for rotating the same. The inner end of the rod 12 has a piston mounted thereon which comprises the spaced disks 14 and 15 between which is confined the cup leather 16, the two disks 14 and 15 and the cup leather being rotatably mounted upon the reduced end 17 of the piston rod and retained in place by means of a washer 18, through which the end of the piston rod extends and is riveted over to secure the washer thereto.

The head 8 is provided with a central boss 19 having a reduced portion 20, shown in dotted lines in Fig. 1, forming a shoulder 21 and a discharge opening 22 formed therethrough. A pin 23 extends through the reduced portion 20 and from both sides thereof. The discharge conduit 24 is formed from a piece of flexible duct, preferably comprising an outer spiral metallic rib 25. There are numerous flexible ducts in commercial use which may be employed for this part of my invention, and further description thereof appears to be unnecessary. At one end of the duct 24 I provide an L-shaped coupling 26 having bayonet slots 27, one of which is not shown, which co-act with the opposite ends of the pin 23 to secure the coupling to the pump. The opposite end of the conduit 24 is provided with a straight coupling 28 having bayonet slots 29, one of which is not shown, for co-acting with the opposite ends of the pin 30 of my novel grease cup.

From the above description it will be clear that either coupling member can be connected with either the pump or with the grease cup. By using the L-shaped coupling for connecting with the grease cup it is sometimes possible to gain access to a grease cup which would not otherwise be accessible.

My novel grease cup comprises a tubular member 31 having the screwthreads 32 at one end thereof for securing them to a bearing, and the other end thereof being flanged inwardly as shown at 33, for the purpose of

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Plaintiff's Exhibit No. 39.

providing a seat for the ball closure 34. This closure is urged against its seat by means of a compression spring 35, which is confined between the pin 30 and the closure 34. The central portion of my grease cup is hexagonal in cross section, as indicated at 36, thereby providing means for receiving the jaws of a wrench to screw the cup into place.

In Fig. 3 the reference character 37 indicates a gasket made of felt or other suitable material for sealing the connection between the coupling and the grease cup. From this construction it will be seen that when the coupling member is secured to the grease cup by means of the bayonet connection, there will be no chance for the grease to escape between these two members when the piston rod 12 is rotated to force the piston inwardly, and thereby force the grease into the grease cup. This is an improved feature of my invention, for the reason that in prior grease pumps with which I am acquainted, no means has been provided for locking the discharge end of the nozzle to the grease cup, and consequently, if more grease than is necessary to fill the grease cup is forced through the nozzle, the excess quantity of grease merely overflows the edge of the grease cup and is wasted. With my improved construction there is no chance for grease being wasted in this manner. Furthermore, it is possible completely to fill the grease cup with grease, which is a result impossible of being obtained with the old type of grease pumps for the reason that by the use of these pumps more or less air always became entrapped in the grease.

Another advantage of my construction lies in the fact that after the coupling member of my grease pump has been connected with the grease cup, the pump can be operated without paying any attention to the location of the grease cup.

While I have disclosed the preferred embodiment of my invention, it is to be understood that it is not limited to the details of the structure described, but is capable of other adaptations and modifications within the scope of the appended claims, some of which are broad enough to include constructions in which the grease cups are entirely dispensed with and means are provided for detachably connecting the grease pump with members having apertures formed therein for conveying grease to the parts to be lubricated.

Having thus described my invention, what I claim as new and desire to secure by Letters Patent of the United States is:

1. The combination with a grease pump having a discharge opening and a flexible discharge conduit provided at one end with a straight coupling and at the other end with an L-shaped coupling, of a grease cup and means on said grease pump and grease cup for co-acting with said couplings to interchangeably connect either end of said conduit with said pump and cup respectively.

2. The combination with a grease pump having a discharge opening and a discharge conduit provided at one end with a straight coupling and at the other end with an L-shaped coupling, of a grease cup and means on said grease pump and grease cup for co-acting with said couplings to interchangeably connect either end of said conduit with said pump and cup respectively.

3. A grease cup comprising a tubular member having screwthreads at one end and having the other end flanged inwardly to provide a closure seat, a closure, a pin extending through said tubular member and on both sides thereof, and a spring confined between said pin and closure and tending to hold said closure on said seat.

4. A grease cup comprising a tubular member having one end flanged inwardly to provide a closure seat, a closure, a pin extending through said tubular member and on both sides thereof, and a spring confined between said pin and closure and tending to hold said closure on said seat.

5. A grease cup comprising a tubular member having one end flanged inwardly to provide a closure seat, a closure, a pin extending inwardly and outwardly from one wall of said tubular member, and a spring confined between the inner end of said pin and said closure to hold said closure on its seat.

6. A grease pump having a discharge opening in combination with a discharge conduit having a straight coupling member at one end and an L-shaped coupling member at the other end, said couplings and pump being provided with co-acting means for connecting either of said couplings with said pump.

In witness whereof, I hereunto subscribe my name this 1st day of February, 1918.

ARTHUR V. GULLBORG.

Witnesses:
H. M. CAULFIS,
OSCAR RAHM.

Plaintiff's Exhibit No. 39.

1918

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3.	Power of Atty	June 24, 1918
4.	Ry	July 22, 1911
5.	Letter	Aug 24, 1918.
6.	[illegible]	[illegible]
7.	[illegible] 13	[illegible]
8.	[illegible]	[illegible]
9.	Amendment C	[illegible]
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Div. 45.

216 581

A. V. GULLBORG.

1,307,733.

Patented June 24, 1919.

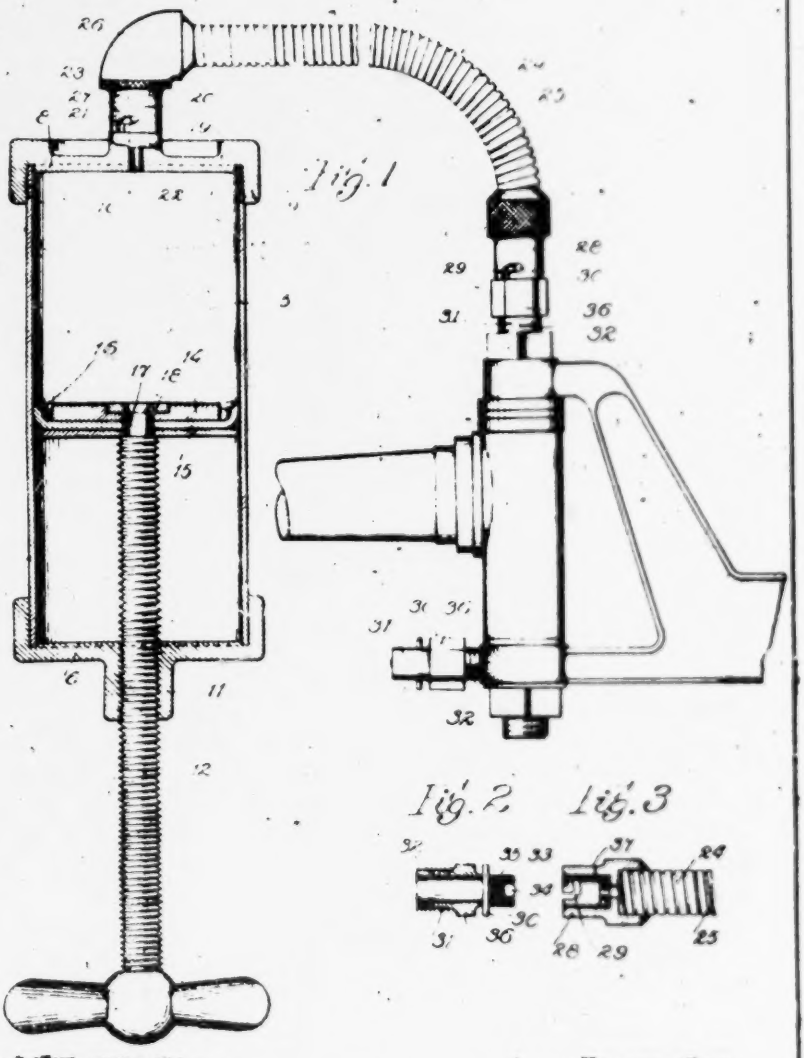

Fig. 1

Fig. 2

Fig. 3

Witnesses:
Edward Winterson
Eugene F. Pierce

Inventor
Arthur V. Gullborg
By Williamson Bradbury & Le Favre
Attys.

217

287

Plaintiff's Exhibit No. 40.

Pl's Ex # 40

4/7/33

390

DEPARTMENT OF COMMERCE

UNITED STATES PATENT OFFICE

To all persons to whom these presents shall come, Greeting:

THIS IS TO CERTIFY that the annexed is a true copy from the records of this office of the File Wrapper and Contents, with exception of Notices of Suit; and Drawing, in the matter of

Letters Patent of

Arthur V. Gullborg,

Number 1,307,734, Granted June 24, 1919,

for

Improvement in Lubricating Means.

IN TESTIMONY WHEREOF I have hereunto set my hand and caused the seal of the Patent Office to be affixed, at the City of Washington, this eighteenth day of May, in the year of our Lord one thousand nine hundred and thirty-one and of the Independence of the United States of America the one hundred and fifty-fifth.

ATTEST:

Chief of Division

Thomas E. Robertson

Commissioner of Patents

283

Plaintiff's Exhibit No. 40.

NUMBER (Series of 1915), 267858 — 1918 — (DOC'S BOOK) 236 — 1307734

DIV. 45 — PATENT No.

Name: Arthur V. Gullborg

of Chicago,

County of

State of Illinois

Invention: Lubricating Means

	ORIGINAL	RENEWED
Petition	Dec 21, 1918	
Affidavit	" " , 1918	
Specification	" " , 191	
Drawing	" " , 1918	
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Appl. first complete	Dec 21, 1918	

PARTS OF APPLICATION FILED

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Notice of Allowance March 29, 1919

Final Fee Rec'd May 23, 1919

, 191

Patented JUN 24 1919

Attorneys Williams, Bradbury & Kee, Monad. Chicago, Ill.

Associate Attorney

(No. of Claims Allowed 16) Print Claims 1 in O. G. (Vol. 264, p. 2)

Title as Allowed Lubricating Means

267858-2-2

Division of App. No.

Plaintiff's Exhibit No. 40.

267,854

ATTORNEYS AND COUNSELORS
PATENT AND TRADE MARK CAUSES
CHICAGO

December 18, 1918

Hon. Commissioner of Patents
Washington, D. C.

Dear Sir:

Please file the enclosed application of Arthur V. Cullborg, Case 3, covering improvement in Lubricating Means, and apply the enclosed check of Lynn A. Williams for $15 in payment therefor.

Yours very truly,

William Bradbury & Wes

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267854

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Plaintiff's Exhibit No. 40.

267,858-1

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U. S. P.
DEC 30 1918
DIVISION

TO THE COMMISSIONER OF PATENTS:

Your petitioner, ARTHUR T. GULLBORG, a citizen of the United States, and resident of Chicago, in the County of Cook, and State of Illinois, whose post-office address is C/o Alemite Metals Company, 341 West Chicago Avenue, Chicago, Illinois, prays that letters patent may be granted to him for the improvement in LUBRICATING MEANS (Case 3) set forth in the annexed specification, and he hereby appoints WILLIAMS, BRADBURY & SEE (Reg. No. 10,473) a co-partnership composed of Lynn A. Williams, Clifford C. Bradbury, and Robert M. See, of 1315 Monadnock Block, Chicago, Illinois, his attorneys, with full power of revocation and substitution to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent Office connected therewith.

Signed at Chicago, in the County of Cook, and State of Illinois, this 14th day of December, A. D. 1918.

Arthur T. Gullborg

267858
2

Plaintiff's Exhibit No. 40.

TO ALL WHOM IT MAY CONCERN:

Be it known that I, ARTHUR V. GULLBORG, a citizen of the United States, residing at Chicago, in the County of Cook and State of Illinois, have invented a certain new and useful improvement in LUBRICATING MEANS, of which the following is a full, clear, concise, and exact description, reference being had to the accompanying drawing, forming a part of this specification.

My invention relates to lubricating means and is especially concerned with means for supplying suitable lubricants to parts of machines or apparatus requiring lubrication where these parts are difficult to gain access to, and is further concerned with the provision of apparatus for supplying lubricants under pressure to movable parts, the said means comprising a grease pump or gun provided with means for detachably connecting it with the various parts to be lubricated.

The objects of my invention are:

1st. To provide novel means for supplying a lubricant under pressure to the parts of an apparatus to be lubricated, the said means comprising a grease pump or gun and means for detachably connecting the discharge of said grease pump or gun with the part to be lubricated.

2nd. To provide novel coupling means for connecting the grease gun with the parts

to be lubricated, the said coupling means being so constructed that when the coupling members are uncoupled or disconnected from each other there will be no excess lubricant on the outer ends of the coupling members.

3d. To provide novel means for effectively sealing the joint between the coupling members so that the lubricant may be forced between the parts to be lubricated under a very heavy pressure.

4th. To provide novel means whereby lubricant may be supplied to parts to which it is difficult to gain access.

5th. To provide novel coupling members to be permanently secured to the parts to be lubricated.

6th. To provide novel means to assist in attaching and detaching a tubular coupling member to a part to be lubricated.

Further objects will appear as the description progresses, reference being had to the accompanying drawing in which,

Fixure 1 is a side elevation showing my improved grease gun,

Figure 2 is a longitudinal section through the coupling member thereof,

Figure 3 is a side elevation of one type of coupling member adapted to be secured to the part to be provided with lubricant and co-acting with the coupling member of my grease gun for connecting the discharge outlet of the grease gun with the part to be lubricated,

Figure 4 is a longitudinal section of the structure shown in Figure 3,

Figure 5 is a longitudinal section through the coupling members shown in Figures 3 and 4, but taken on a plane at right angles to the section plane of

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Figures 3 and 4 showing the two coupling members united,

Figure 6 is a more or less conventional plan view of an automobile with the body thereof removed showing the novel means which I provide for conveying lubricant to parts ordinarily difficult to gain access to, the front portion of the automobile chassis being broken away,

Figure 7 is a sectional view showing the means for securing my coupling members to the ends of the conduits for conveying lubricant to the parts difficult of access,

Figure 8 is a side elevation of a modified form of coupling member,

Figure 9 is a side elevation of a still further modification of my coupling member, and

Figure 10 is a perspective view of the means which I employ for rotating the coupling members shown in Figure 9 in either direction to attach it to or detach it from the part to be provided with a lubricant.

Similar characters of reference refer to similar parts throughout the several views.

Referring to the drawings, the reference character 15 indicates the barrel of my improved grease gun or pump which is provided in a wellknown manner with a plunger, not shown, which is reciprocated in the barrel 15 by means of a screw-threaded piston rod 16 which co-acts with a screwthreaded nut 17, the piston 16 being provided with a handle 18. The barrel 15 is provided with ribs or serrugations 15' to insure a firm grip of the hand thereon. A flexible conduit 19, of any

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Plaintiff's Exhibit No. 40.

5676

suitable and wellknown construction, has one end secured to the discharge outlet 20 of my pump and the other end is provided with a hollow coupling member, indicated in general by the reference character 21. The free end of this coupling member, as shown in Figure 3, is provided with a bayonet slot 22, the transverse portion 23 of which is inclined from the inner end of the longitudinal portion of the slot toward the outer end of the coupling member for a purpose which will be referred to later on. The bore of the coupling member is enlarged at 24 to provide an annular shoulder 25. A perforated cup leather or sealing disk 26 is slidably mounted in the annular portion 24 of the bore of the coupling and is urged against the shoulder 25 by means of a coiled spring 27, one end of which abuts against the cup leather or sealing disk 26 and the other end of which abuts against the adjacent end 28 of the conduit 19. This end of the conduit may be soldered or secured in any convenient manner to the coupling member.

Referring to Figures 3 and 4, the reference character 29 indicates as a whole a second coupling member which co-acts with the coupling member just described. This coupling member is in general tubular in form and is provided at one end with screwthreads 30 for securing it to the part to be lubricated. A pin 31 extends through and projects from the opposite sides of the other end of the tubular member. This end of the tubular member is flanged inwardly, as indicated at 32, to form a valve seat with which the hollow spherical shaped valve 33 co-acts. A spring 34 is interposed between the pin 31 and the hollow

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valve 33 urges the latter against the valve seat 32. My purpose in making the valve 33 hollow is, first, to provide sufficient room for the spring 34 without materially increasing the length of the coupling member, and, second, to provide means which will tend to prevent the spring 34 from buckling or flexing longitudinally when the valve 33 is pushed inwardly to admit the lubricant. My invention contemplates the provision of facets 36 to receive the jaws of a wrench whereby the coupling member may be attached to or detached from the parts to be lubricated.

In Figure 3 I have shown the coupling members 31 and 39 coupled together. In this position it will be noted that the spring 37 is partially compressed and that the sealing disk 38 is displaced from the annular shoulder 35 by the end of the coupling member 39. When the piston of the gun pump is actuated to force lubricant through the conduit 19 under pressure this pressure will cause the sealing disk 38 to seal the joint between the two coupling members and thus prevent any escape of lubricant over the sides of the coupling member 39. On account of the fact that the transverse portion 33 of the bayonet slot in the coupling member 31 is inclined toward the open end of this coupling member it is necessary in order to detach the coupling member from the coupling member 39 to move it toward the coupling member 31. This movement causes an additional small quantity of lubricant to be forced into the coupling member 39. When the coupling member 31 is then turned to permit the pin 41 to slide in the

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for Ess

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longitudinal portion of the slot 22 the sealing disk 26 is moved toward the end of the coupling member 29 under the pressure of the spring 34. This causes the sealing disk 26 to move toward the outer end of the coupling member 21 and thereby produces a slight vacuum which causes any grease which might otherwise remain on the outer end of the coupling member 29 or the outer side of the valve 33 to be sucked back behind the sealing disk 26 and thereby prevents any excess of lubricant from remaining on the end of the coupling member 29 or on the outside of the valve.

From the above description it will be seen that I have provided means for conveying a lubricant to the part or parts to be lubricated which not only prevents the loss of lubricant, even though the lubricant may be forced between the bearing surfaces under very high pressure, but also prevents the lubricant from remaining upon exposed portions of the coupling members after these have been uncoupled, and subsequently lost. This feature is of importance where, as I will describe later on, the coupling members are located at readily accessible points and where, in case the parts being lubricated form a part of a motor vehicle or other similar structure, the clothes of the operator are likely to come in contact with these coupling members.

Referring to Figure 6 in which I have disclosed a portion of a motor vehicle with the body thereof removed, the reference character 37 indicates a bearing in the differential casing which is supplied with lubricant by a conduit 38 connected therewith by a suitable hollow coupling 39. The other end of the conduit 38 is

brought forwardly in the vehicle and is secured to either the dash or the instrument board, as may be found convenient, by means of a floor socket 40, shown in detail in Figure 7, which is secured in place by means of the screws 41 and is provided with an internal screwthread for receiving the screwthreaded portion 30 of a coupling member 29'. This coupling member 29' is similar to that shown in Figures 3 and 4, except that it is not provided with the facets 36 for receiving the jaws of a wrench. The forward end of the conduit 38 may be soldered or otherwise secured in the socket 40. The reference character 42 indicates another conduit for conducting oil from the coupling member 29' to the transmission housing 43.

While I have illustrated means for conducting lubricant to but two portions of this automobile vehicle it is to be understood that conduits similar to 38 and 42 may be used for conducting lubricant to any portion of the vehicle which it is desired to lubricate. Furthermore, this feature of my invention is not to be limited to means for lubricating motor vehicles, but is capable of being used for lubricating any apparatus whether the parts to be lubricated are or are not difficult of access.

In Figure 8 I have shown a modified form of a coupling member to be secured to a part to be lubricated. This coupling member is "L" shaped and one end thereof is provided with screwthreads 30' and the other end thereof being provided with a pin 31 and a spring-

Gothic 267857

pressed valve or closure 33 similar to that described in connection with Figures 3 and 4. The purpose of this coupling member is to provide means for connecting the coupling member 31 with a part to be lubricated which would otherwise be difficult of access if provided with a straight coupling member such as that shown in Figures 3 and 4.

In Figure 9 I have disclosed a still further modification of my coupling member wherein it is formed from a tubular member 44 of substantially constant diameter which is not provided with means for co-acting with a wrench to attach or detach it to the part to be lubricated. In order to thus attach or detach this member I provide the means illustrated in Figure 10. This means comprises a sleeve-like member 45 having a bore 46 therein for receiving the tubular member 44 and slots 47 for receiving the ends of the pin 31 of the tubular member 44. The member 45 is provided with facets 48 for co-acting with a wrench or other tool for rotating this sleeve.

While I have described the preferred embodiments of my invention it is to be understood that it is capable of other adaptations and modifications within the scope of the appended claims.

Having thus described my invention what I claim is new and desire to secure by Letters Patent of the United States is:

Plaintiff's Exhibit No. 40.

5681

1. The combination with a hollow coupling member having a pin projecting from one side thereof and a spring-pressed closure, of a pump having a flexible conduit connected with the outlet thereof, a second hollow coupling member secured to the other end of said conduit for receiving the closed end of said first named coupling member and provided with a bayonet slot for receiving said pin, the transverse portion of said slot being inclined from the longitudinal portion thereof towards the outer end of the coupling member, the bore of said coupling member being enlarged to provide a shoulder, a perforated sealing disk slidably mounted in the enlarged portion of said bore, and a spring confined between the ends of said conduit and said disk for urging said disk ~~toward said shoulder~~.

2. The combination with a hollow coupling member having a pin projecting from one side thereof and a spring-pressed closure, of a pump, a discharge conduit having one end secured to the outlet of said pump, a second hollow coupling member for receiving the closed end of said first named coupling member secured to the other end of said conduit and provided with a bayonet slot adapted to co-act with said pin, a perforated sealing disk mounted to reciprocate in the bore of said coupling member, means for yieldingly urging said sealing disk against the closed end of said first named coupling member, and means for limiting the movement of said sealing disk in the direction coupling member.

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300

Plaintiff's Exhibit No. 40.

3. The combination with a hollow coupling member having a spring-pressed closure, of a pump, a discharge conduit having one end secured to the outlet of said pump, a second hollow coupling member for receiving the closed end of said first named coupling member secured to the other end of said conduit, a perforated sealing disk mounted to reciprocate in the bore of said coupling member, means for yieldingly urging said sealing disk against the closed end of said first named coupling member, and means for limiting the movement of said sealing disk toward said second coupling member.

4. The combination with a hollow coupling member having a spring-pressed closure, of a pump, a discharge conduit having one end secured to the outlet of said pump, a second hollow coupling member for receiving the closed end of said first named coupling member secured to the other end of said conduit, a perforated sealing disk mounted to reciprocate in the bore of said coupling member, and means for yieldingly urging said sealing disk against the closed end of said first named coupling member.

5. The combination with a hollow coupling member, of a pump having a discharge outlet provided with a second coupling member for receiving said first named coupling member, a perforated sealing disk slidably mounted in said second coupling member, means for yieldingly holding said sealing disk against the end of said first coupling member, and means for detachably uniting said coupling members comprising

causing said sealing disk to recede from the open end of said second coupling member when said coupling members are uncoupled.

6. The combination with a hollow coupling member, of a pump having a discharge outlet provided with a second coupling member for receiving said first named coupling member, a perforated sealing disk slidably mounted in said second coupling member, means for yieldingly holding said sealing disk against the end of said first coupling member, and means for detachably uniting said coupling members.

7. The combination with a hollow coupling member, of a pump having a discharge outlet provided with a second coupling member for receiving said first named coupling member, a perforated sealing disk slidably mounted in said second coupling member, and means for yieldingly holding said sealing disk against the end of said first coupling member.

8. The combination with a hollow coupling member of means for forcing a lubricant through said coupling member comprising a receptacle having a discharge outlet, a second hollow coupling member connected with said discharge outlet, means for detachably uniting the open ends of said coupling members, and means movable with respect to both coupling members for sealing the joint between said coupling members and for removing excess lubricant from the ends of said coupling members when said coupling members are uncoupled.

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Plaintiff's Exhibit No. 40.

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9. The combination with a hollow coupling member of means for forcing a lubricant through said coupling member comprising a receptacle having a discharge outlet, a second hollow coupling member connected with said discharge outlet, and means for detachably uniting the open ends of said coupling members.

10. The combination with a pump having a flexible conduit connected with the outlet thereof, of a hollow coupling member secured to the other end of said conduit and provided with a bayonet slot, the transverse portion of said slot being inclined from the longitudinal portion thereof towards the outer end of the coupling member, the bore of said coupling member being enlarged to provide a shoulder, a perforated sealing disk slidably mounted in the enlarged portion of said bore, and a spring confined between the ends of said conduit and said disk for urging said disk toward said shoulder.

11. The combination with a pump having a discharge outlet, of a coupling member connected with said discharge outlet and provided with a bayonet slot, the transverse portion of said slot being inclined from the inner end of the longitudinal portion thereof toward the outer end of said coupling member, a perforated sealing disk slidably mounted in the bore of said coupling member, and means for yieldingly urging said sealing disk toward the outer end of said coupling member, and means for limiting the movement of said sealing disk toward the outer end.

7. ~~12.~~ The combination with means for supplying lubricant under pressure, said means comprising a discharge outlet, of a coupling member connected with said discharge outlet, a perforated ~~cooking disk~~ cup leather disk slidably mounted in said coupling member, and means for yieldingly urging said ~~cooking disk~~ cup leather toward the outer end of said coupling member.

13. A coupling member comprising a tubular member having one end flanged over to provide a valve seat, a pin extending through said tubular member adjacent one end thereof and from one side thereof, a hollow valve, and a spring interposed between said pin and valve for urging said valve against said seat, one end of said spring being surrounded by said hollow valve.

14. A coupling member comprising a tubular member having a valve seat formed in one end, a pin extending through said tubular member adjacent one end thereof, a hollow valve, and a spring interposed between said pin and valve for urging said valve against said seat, one end of said spring being surrounded by said hollow valve.

15. A coupling member comprising a tubular member provided at one end with a valve seat, a hollow valve co-acting with said valve seat, and a spring for urging said valve against said seat, one end of said spring being surrounded by said hollow valve.

~~16.~~ 8. The combination with an apparatus using

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a part to be lubricated, of a conduit for conducting lubricant to said part, a coupling member secured to the end of said conduit and provided with a spring-pressed valve closure, means for supplying lubricant to said conduit comprising a receptacle provided with a discharge outlet, a second coupling member connected with said discharge outlet, means for detachably uniting said coupling members, and means for sealing the joint between said coupling member and for removing excess lubricant from the adjacent ends thereof when said coupling members are uncoupled.

27. The combination with an apparatus having a part to be lubricated, of a conduit for conducting lubricant to said part, a coupling member secured to the end of said conduit and provided with means for supplying lubricant to said conduit comprising a receptacle provided with a discharge outlet, a second coupling member connected with said discharge outlet, means for detachably uniting said coupling members, and means for sealing the joint between said coupling members.

16. The combination with an apparatus having a part to be lubricated, of a conduit for conducting lubricant to said part, a coupling member secured to the end of said conduit and provided with means for supplying lubricant to said conduit comprising a receptacle provided with a discharge outlet, a second coupling member connected with said discharge outlet, and means for

detachably uniting said coupling members and for removing excess lubricant from the adjacent ends thereof when said coupling members are uncoupled.

16 19. The combination with an apparatus having a part to be lubricated, of a conduit for conducting lubricant to said part, a coupling member secured to the end of said conduit and provided with means for supplying lubricant to said conduit comprising a receptacle provided with a discharge outlet, a second coupling member connected with said discharge outlet, and means for detachably uniting said coupling members.

20. A hollow "L" shaped coupling member having one end provided with a screw-thread, a pin projecting from said member adjacent the other end, said last named end being provided with a valve seat, a valve co-acting with said seat, and a spring interposed between said valve and pin for urging said valve against said seat.

21. An "L" shaped coupling member having one end screw-threaded, and a spring-pressed closure for the other end.

22. An "L" shaped coupling member having one end screw-threaded, and a closure for the other end.

23. The combination with a tubular coupling member having one end provided with a screw-thread, of a pin projecting from one side of said tubular member, and

Plaintiff's Exhibit No. 40.

means for rotating said tubular member comprising a member provided with a bore for receiving said tubular member, and a slot for receiving said pin.

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IN WITNESS WHEREOF, I hereunto subscribe my name this 14th day of December, 1918.

Arthur V Gullborg

WITNESSES:

John E. Carlson

John L Steffen

O A T H

State of Illinois)
) ss:
County of Cook)

ARTHUR V. GULLBORG, the above named petitioner, being duly sworn, deposes and says that he is a citizen of the United States, and resident of Chicago, in the County of Cook, and State of Illinois, and that he verily believes himself to be the original, first, and sole inventor of the improvement in LUBRICATING MEANS (Case 3) described and claimed in the annexed specification; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, or patented or described in any printed publication in the United States of America, or any foreign country before his invention or discovery thereof, or more than two years prior to this application, or in public use or on sale in the United States for more than two years prior to this application, that said invention has not been patented in any country foreign to the United States on an application filed by him or his legal representatives or assigns, more than twelve months prior to this application and that no application for patent on said improvement has been filed by him or his representatives or assigns in any country foreign to the United States.

Arthur V Gullborg

Subscribed and sworn to before me this 14th day of December, 1918.

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H. E. Johnson
Notary Public.

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Plaintiff's Exhibit No. 40.

DIV. 45 ROOM 570

Address only "The Commissioner of Patents, Washington, D. C.," and not any official by name.

Paper No. 8

All communications concerning this application should give the serial number, date of filing, title of invention, and name of the applicant.

DEPARTMENT THE INTERIOR

B-W UNITED STATES PATENT OFFICE

WASHINGTON Jan. 16, 1919.

PATENT OFFICE JAN 16 1919

Williams, Bradbury & Lee,

Monadnock Block,

Chicago, Ill.

Please find below a communication from the EXAMINER in charge of the application of

Arthur V. Gullberg, Serial No. 267,858, filed Dec. 21, 1918,

for Lubricating Means.

James T. Newton

Commissioner of Patents.

Division is required as applicant is claiming two separate and independent inventions: First - Claims 1 to 12 inclusiv and 16 to 19 inclusive. Second - Claims 14, 15, 20 to 23 inclusive.

Claims 14, 15, 20 to 23 inclusive belong to Division 39.

The following art is cited as showing something of the state of the art:

Snyder, et al,	1,041,584,	Oct. 15, 1912;	(184-105)
Michelin,	750,675,	Jan. 26, 1904;	" "
DeGrey,	1,017,654,	Feb. 20, 1912;	" "
Winkley,	1,201,414,	Oct. 17, 1916;	" "
Reasoner,	1,126,568,	Jan. 26, 1915;	" "
Wurster,	356,519,	Jan. 25, 1887;	" "
Richardson,	8,251,	July 29, 1851;	(184-89)
Bitter, (German)	6,118,	Nov. 10, 1878;	(184-45).

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Examiner.

267858

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Plaintiff's Exhibit No. 40.

UNITED STATES PATENT OFFICE

Applicant - Arthur V. Gullborg — Case 3

Invention - Lubricating means — Div. 45 Room 379

Serial No. - 267,858 — Filed Dec. 31, 1918

1313 Monadnock Block

Chicago, March 7, 1919

Hon. Commissioner of Pats s,

Washington, D. C.

SIR:

In the matter of the above entitled application, and in response to Official Action, Paper No. 3, dated January 16, 1919, applicant amends by cancelling claims 13, 14, 15, 20, 21, 22, and 23, and renumbering the claims.

REMARKS:

The requirement for division having been complied with, action upon the merits of this application is respectfully requested.

Claim 13 has been included in the claims cancelled from this application, as it appears to relate to the same subject matter as claims 14 and 15.

The applicant reserves the right to file a divisional application covering the subject matter of the cancelled claims.

Respectfully,

ARTHUR V. GULLBORG,

by Williams Bradbury & Hu

Attorneys.

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Plaintiff's Exhibit No. 40.

APPLICATION FILED MAR 20 1919 PATENT OFFICE

U. S. Patent Office

MAR 20 1919

5690

UNITED STATES PATENT OFFICE

Applicant - Arthur V. Gullborg — Case 3

Invention - Lubricating Means — Div. 45 Room 379

Serial No. - 387,858 — Filed Dec. 21, 1918

-----:-----

Hon. Commissioner of Patents,

Washington, D. C.

Sir:

Please amend as follows:

Claim 1, last line, cancel "toward said shoulder" and insert --against said first-named coupling member--.

Claim 3, next to last line, cancel "toward" and insert --in the direction of--.

Claim 12, lines 4 and 6, cancel "sealing disk" and substitute --cup leather--.

Claim 14, next to last line, substitute --a pliable gasket-- for "means".

Cancel claims 5, 6, 7, 8, 9 and 18 and renumber the claims.

Add the following claims:

11. The combination with a bearing provided with a member for receiving lubricant, of means for supplying lubricant thereto comprising a hollow member, means for supplying lubricant to said hollow member under pressure, means for detachably connecting said members, and means for sealing said connection comprising a gasket positioned between said members and held against one of said members by the pressure of the lubricant.

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13. The combination with a bearing provided with a member for receiving lubricant, of means for supplying lubricant thereto comprising a hollow member, means

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Plaintiff's Exhibit No. 40.

for supplying lubricant to said hollow member under pressure, means for detachably connecting said members, means for sealing said connection comprising a gasket positioned between said members and held against one of said members by the pressure of the lubricant, and a spring for initially positioning said gasket against said member.

13. The combination with a receptacle for receiving lubricant, of means for supplying lubricant to said receptacle comprising a hollow member, means for forcing lubricant into said hollow member under pressure, and means for connecting said hollow member to said receptacle in fluid-tight relation comprising a pliable member positioned in said hollow member and having one face for contacting with said receptacle, the other face of said pliable member being subjected to the pressure of the lubricant in said hollow member.

R E M A R K S

The above amendments are made as a result of an oral interview held with the Principal Examiner and the Assistant Examiner having charge of this application and are believed to place this application in condition for allowance.

Certain of the claims have been withdrawn; claim 5 because it inaccurately described the applicant's invention.

Claims 1 to 7, inclusive, 11, 12 and 13 are drawn to cover the means which the applicant employs for sealing the connection between the discharge conduit of his grease gun and the coupling member. This means comprises a cup leather which is initially held in contact with the end of the coupling member secured to the bearing by means of a spring. When pressure is exerted upon the lubricant

the cup leather, being pliable or flexible, is forced tightly against the sides of the coupling member in which it is mounted and against the adjacent end of the coupling member secured to the bearing and effectually seals the joint between these two members so as to prevent any escape of the lubricant, notwithstanding the fact that the lubricant is maintained under an exceedingly high pressure. The nearest approach to this construction is found in the patent to Winkley but in this patent the perforated lower end of his so-called oil cup, which is slightly mounted in the nozzle and which seals the connection between the conduit and the so-called lubricant receptacle, is not flexible but is made of metal and must be ground to make a tight joint with the adjacent surface of the head of the lubricant receptacle. While this construction is practical it is costly to manufacture and any injury to the contacting surfaces which form the seal will prevent these surfaces from contacting and performing their proper functions. The applicant by making use of a cup leather has provided not only a cheap construction but one which will perform its designed function in a very satisfactory manner and which will accommodate itself to any inequalities in the contacting surface or the coupling member, so that it is unnecessary to perform any costly machining operations upon either of the contacting members and any slight irregularities in the surfaces of the contacting members made either during the process of manufacture or accidentally will not interfere with the proper sealing of the connection between the flexible conduit and the coupling member.

None of the remaining references disclose an element which is subjected to the pressure of the lubricant

in order to make a seal for the connection between the conduit and the lubricant receptacle and it is believed that, for the reasons above given, the claims referred to will be found to be patentable.

All of the references cited in the office action of Jan. 16, 1919, and other additional references were considered during the oral interview and it is counsel's understanding that the Principal Examiner and Assistant Examiner believe the claims referred to recite patentable subject-matter.

Claims 8, 9 and 10 are directed to that modification of the applicant's invention in which a conduit is inserted between the coupling member and the bearing so that the coupling members which are intended to form a part of the mechanism to be lubricated can all be positioned at a readily accessible part of the mechanism, the conduit serving to convey the lubricant from its place to the bearings to be lubricated. None of the references disclose a similar combination and in an absence of any other art it is believed these claims will be found to be patentable.

Claims 8 and 10 specify means for removing the excess lubricant from the ends of the coupling members. In the applicant's construction when the coupling member of the grease gun is removed from the coupling member secured to the conduit, the cup leather is forced outwardly by the action of the spring thereby creating a slight suction which is sufficient to pull the lubricant back into the discharge conduit of the grease gun. It will be noted from the drawings that the movement of the cup leather upon the removal of the coupling from the coupling screw to the conduit is quite considerable, thereby affording

sufficient space to receive the lubricant which might otherwise adhere to the end of the coupling member secured to the bearing.

The nearest approach to this construction is found in the patent to Winkley.in which the so-called oil cup of the nozzle has a slight movement relatively to the nozzle but in the Winkley construction this movement is so slight that it would never provide sufficient room, nor cause sufficient suction to be produced to remove the excess lubricant. Consequently, while the differences in construction between the applicant's device and the Winkley device are merely differences in degree this difference in degree produces a new result which is not in any way suggested by the Winkley patent.

Allowance of this application is for the above reasons respectfully requested.

Respectfully,

ARTHUR V. GULLBORG,

By Williamson Bradbury & Co.
Attorneys

Washington, D. C.,
March 20, 1919

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Plaintiff's Exhibit No. 40.

Part #5—

-073-

DEPARTMENT OF THE INTERIOR

UNITED STATES PATENT OFFICE

WASHINGTON May 8, 1919

Petition:

Application of H. V. Sullberg

Serial No. 267858

Invention:

This petition is referred to the Examiner in charge of Division 45 for recommendation.

In case he recommends adversely he will state his reasons therefor and furnish a copy thereof to petitioner.

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J. S. Newton

Commissioner of Patents.

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Plaintiff's Exhibit No. 40.

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U.S. Patent Office
MAY 6 - 1919
DIVISION 45

Amendment & Rule 78

5695

UNITED STATES PATENT OFFICE

Applicant - Arthur V. Gullborg — Case 3

Invention - Lubricating Means — Div. 45 Room 379

Serial No. - 267,858 — Filed December 21, 1918

1315 Monadnock Block

Chicago, April 30, 1919

Hon. Commissioner of Patents

Washington, D. C.

S i r :

Please amend by adding the following claims:

14. The combination with a grease cup comprising a tubular member having one end flanged inwardly to provide a closure seat, a closure, a pin extending through said tubular member and from both sides thereof, and a spring confined between said pin and closure, and tending to hold said closure on its seat, of a grease pump having a discharge conduit, and means co-acting with the ends of said pin for detachably connecting the discharge end of said conduit with said grease pump.

C'

15. The combination with a grease cup comprising a tubular member having a closure seat, a closure, a pin extending through said tubular member and from both sides thereof, and a spring confined between said pin and closure, and tending to hold said closure on its seat, of a grease pump having a discharge conduit, and means co-acting with the ends of said pin for detachably connecting the discharge end of said conduit with said grease cup.

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Plaintiff's Exhibit No. 40.

16. The combination with a grease gun having a discharge conduit, of means for connecting said conduit with a bearing comprising a tubular member, co-acting means on said conduit and said tubular member for detachably connecting said conduit and tubular members, and a flexible member for sealing the joint between said conduit and said tubular member, said flexible member having an aperture for the passage of lubricant from said conduit to said tubular member, a portion of one face of said flexible member being positioned so as to be subjected to any pressure created in said conduit to force it against said tubular member.

17. The combination with means for supplying lubricant under pressure comprising a discharge member, of means for connecting said discharge member to a bearing comprising a tubular member, and means for detachably connecting said members in sealed relation comprising means subjected to the pressure created in said members, the said means being positioned between said members and held against one of said members by said pressure.

18. The combination with a member for receiving lubricant, of means for supplying lubricant thereto under pressure comprising a tubular member, means for detachably connecting said tubular member to said lubricant-receiving member in sealed relation comprising a flexible member provided with an aperture for the passage of lubricant, one face of said member being subjected to the pressure of the lubricant.

NOTE:

The above claims have been found allowable in

the co-pending application Serial No. 216,586 of the applicant and are transferred to this application to avoid any question of double patenting.

It is respectfully requested that this amendment be admitted.

Respectfully,

ARTHUR T. GILLBORG

By Williamson, Bradbury & Co.

Attorneys.

267858

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Plaintiff's Exhibit No. 40.

Part of #5-

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE,
Washington, D. C., May 12, 1919.

In re application
Arthur V. Gullborg,
Serial No. 267,868,
Filed Dec. 21, 1918,
Allowed March 29, 1919,
Lubricating Means.

Hon. Commissioner of Patents,

Sir:

The accompanying amendment submitted under provisions of Rule 78 containing claims which have been taken from another copending application and have been allowed therein, which have been transfered from this application to avoid double patenting. It is recommended that the amendment be entered.

The final fee has not been paid.

Respectfully,

Examiner, Div. 48.

APPROVED
MAY 12 1919
First Assistant Commissioner

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Plaintiff's Exhibit No. 40.

ADDRESS ONLY
THE COMMISSIONER OF PATENTS
WASHINGTON, D. C.

LETTER NO. 6

-LEC

DEPARTMENT OF THE INTERIOR
UNITED STATES PATENT OFFICE
WASHINGTON

May 14, 1919.

In the matter of the
Application of
Arthur V. Gullborg,
Lubricating Means;
Filed Dec. 21, 1918
Serial No. 267,858.

Amendment.

Sir:

You are hereby informed that the recommendation of the examiner that the amendment be admitted under the provisions of Rule 78, has been approved by the First Assistant Commissioner and the amendment entered.

By direction of the Commissioner:

Very respectfully,

Chief Clerk.

F.

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Arthur V. Gullborg,
c/o Williams, Bradbury & See. 33
Monadnock Bldg.
Chicago, Ill.

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Plaintiff's Exhibit No. 40.

45 Paper No 7

Rm 379

WILLIAMS, BRADBURY & SEE
ATTORNEYS AND COUNSELORS
IN
PATENT AND TRADE MARK CAUSES
115 MONADNOCK BLOCK
CHICAGO

May 28, 1919

Hon. Commissioner of Patents
Washington, D. C.

Sir:

Will you kindly permit the Misses Parkins to withdraw from the Patent Office files for the purpose of preparing certified copies thereof, the application of Arthur V. Gullborg, serial No. 267,858, filed December 21, 1918?

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ATTORNEYS ROOM
MAY 28 1919

Respectfully,

Williams, Bradbury & See

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Plaintiff's Exhibit No. 40.

45 Room 379
Address only
"The Commissioner of Patents,
Washington, D. C."
and not any official by name.

Paper No. 8
All communications regarding this application should give the serial number, date of filing, title of invention, and name of the applicant.

DEPARTMENT OF THE INTERIOR

R-W

UNITED STATES PATENT OFFICE

WASHINGTON June 12, 1919.

EXAMINER'S AMENDMENT

Williams, Bradbury & See,

Monadnock Block,

Chicago, Ill.

Please find below a communication from the EXAMINER in charge of the application of

Arthur V. Gullborg, Serial No. 267,858, filed Dec. 21, 1918,

for Lubricating Means.

James T. Newton
Commissioner of Patents.

In accordance with the provisions of Order No. 2598, dated March 12, 1917, which reads in part as follows:

> * * * * * * *
>
> Obvious informalities in the application may be corrected by the examiner, but said correction must be in the form of an amendment approved by the Principal Examiner in writing, placed in the file, and made a part of the record. The changes specified in the amendment will be entered by the clerk in the regular way.
>
> * * * * * * *

the changes hereinafter specified are made by the examiner in the application above identified.

Should these changes not be satisfactory to the applicant, appropriate amendment may be proposed under the provisions of Rule 78, provided the specification has not been printed.

The application has been amended as follows:

Page 5, last line, change "21" after "pin" to 31.

Page 6, line 9, change "21" to 26.

Claim 9, last word change "member" to members.

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Examiner

Exhibit 5

267858
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Plaintiff's Exhibit No. 40.

ADDRESS ONLY THE COMMISSIONER OF PATENTS, WASHINGTON, D. C.

PW 2—181

Serial No. 267,858

DEPARTMENT OF THE INTERIOR

UNITED STATES PATENT OFFICE

WASHINGTON, March 29, 1919.

Arthur V. Gullborg

Sir: Your APPLICATION for a patent for an IMPROVEMENT in Lubricating Means

filed Dec. 21, 1918, has been examined and ALLOWED.

The final fee, TWENTY DOLLARS, must be paid not later than SIX MONTHS from the date of this present notice of allowance. If the final fee be not paid within that period, the patent on this application will be withheld, unless renewed with an additional fee of $15, under the provisions of Section 4897, Revised Statutes.

The office delivers patents upon the day of their date; and on which their term begins to run. The printing, photolithographing, and engrossing of the several patent parts, preparatory to final signing and sealing, will require about four weeks, and such work will not be undertaken until after payment of the necessary fee.

When you send the final fee you will also send, DISTINCTLY AND PLAINLY WRITTEN, the name of the INVENTOR, TITLE OF INVENTION, AND SERIAL NUMBER AS ABOVE GIVEN, DATE OF ALLOWANCE (which is the date of this circular), DATE OF FILING, and, if assigned, the NAMES OF THE ASSIGNEES.

If you desire to have the patent issue to ASSIGNEES, an assignment containing a REQUEST to that effect, together with the FEE for recording the same, must be filed in this office on or before the date of payment of final fee.

After issue of the patent uncertified copies of the drawings and specifications may be purchased at the price of FIVE CENTS EACH. The money should accompany the order. Postage stamps will not be received.

Final fees will NOT be received from other than the applicant, his assignee or attorney, or a party in interest as shown by the records of the Patent Office.

Respectfully,

James T. Newton

Commissioner of Patents.

Williams, Bradbury & See,

Monadnock Block,

Chicago, Ill.

IN REMITTING THE FINAL FEE GIVE THE SERIAL NUMBER AT THE HEAD OF THIS NOTICE.

UNCERTIFIED CHECKS WILL NOT BE ACCEPTED.

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267,858

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Plaintiff's Exhibit No. 40.

TELEPHONES HARRISON 3899

LYNN A. WILLIAMS
CLIFFORD C. BRADBURY
ROBERT H. SEE
ALBERT G. MILLER
ROBERT F. BRACKE
EARL F. PIERCE

WILLIAMS, BRADBURY & SEE
ATTORNEYS AND COUNSELORS
IN
PATENT AND TRADE-MARK CAUSES
1315 MONADNOCK BLOCK
CHICAGO

DIRECT
MAY
23
1919
U.S. PAT. OFFICE

May 26, 1919.

Hon. Commissioner of Patents,

Washington, D. C.

S i r:

Enclosed herewith please find Mr. Williams' check for $20.00, in payment of the final government fee on the patent application of Arthur V. Gullborg, Serial No. 267,858, filed December 21, 1918, allowed March 29, 1919, covering an improvement in Lubricating Means.

Respectfully,

Williams, Bradbury & See

Enclosure.

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267858
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Plaintiff's Exhibit No. 40.

WILLIAMS BRADBURY MC CALEB & HINKLE
PATENT AND TRADE MARK LAW
CHICAGO

U.S. PAT. OFFICE

August 27, 1927

Hon. Commissioner of Patents,
Washington, D. C.

Sir: In re: Disclaimer in Gullborg Patent No. 1,307,734

Enclosed herewith is formal Disclaimer, under Section 4917, U. S. Rev. Stats., of claim 12 of Gullborg patent No. 1,307,734, granted on June 24, 1919, together with our check for $10.00 to cover the Disclaimer fee.

Respectfully,

Williams, Bradbury, McCaleb & Hinkle

Encl.

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Plaintiff's Exhibit No. 40.

September 21,1927.

Williams, Bradbury,McCaleb & Hinkle,
1515 Monadnock Block,
Chicago, Ill.

Gentlemen:

Enclosed please find the subject matter of the disclaimer filed in Patent No.1307734, granted to Arthur V. Gullborg, June 24,1919, to be attached to the original patent now in your custody.

Very truly yours,

J.A.Brearley,
Chief Clerk.

Enclosure.

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Plaintiff's Exhibit No. 10.

WILLIAMS BRADBURY McCALEB & HINKLE
1818 Monadnock Block Chicago

D I S C L A I M E R

Under Section 4917 U. S. Rev. Stats.

1927 PATENT OFFICE

TO THE COMMISSIONER OF PATENTS:

Your petitioner, THE BASSICK MANUFACTURING COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Delaware and having its principal place of business at 2650 North Crawford Avenue, in Chicago, the County of Cook, and State of Illinois, represents that in the matter of a certain improvement in LUBRICATING MEANS, for which Letters Patent of the United States No. 1,307,734 were granted to one Arthur V. Gullborg, on the 24th day of June, 1919, it is the assignee of the entire right, title and interest in and to said Letters Patent and the inventions disclosed therein, as evidenced by the following assignments:

Assignment from Arthur V. Gullborg to the Alemite Die-Casting & Mfg. Co. Recorded on the 10th day of March, 1920 in Liber T 109, page 402 of Transfers of Patents.

Assignment from Alemite Die-Casting & Mfg. Co. to John S. Gullborg an undivided eighty/three hundred ninety-fifths (80/395) interest, to C. M. Hedman an undivided seventy-five/three hundred ninety-fifths (75/395) interest, to H. R. Hedman, an undivided seventy-five/three hundred ninety-fifths (75/395) interest, to A. V. Gullborg an undivided five/three hundred ninety-fifths (5/395) interest, to F. E. Johnson an undivided ten/three hundred ninety-fifths (10/395) interest, and to D. F. Fesler an undivided one hundred fifty/three hundred ninety-fifths (150/395) interest in said patent. Recorded on the 10th day of March, 1920 in Liber T 109, page 403 of Transfers of Patents.

Assignment by John S. Gullborg an undivided eighty/three hundred ninety-fifths (80/395) interest, by C. M. Hedman an undivided seventy-five/three hundred ninety-fifths (75/395) interest, by H. R. Hedman an undivided seventy-five/three hundred ninety-fifths (75/395) interest, by A. V. Gullborg an undivided five/three hundred ninety-fifths (5/395) interest, by F. E. Johnson an undivided ten/three hundred ninety-

fifths (10/395) interest, and by D. F. Fesler an undivided one Hundred fifty/three hundred ninety-fifths interest in said patent to The Bassick Company. Recorded on the 10th day of March, 1920 in Liber T 109, page 406 of Transfers of Patents.

Assignment from The Bassick Company to The Bassick Manufacturing Company of the entire right, title and interest in and to said patent. Recorded on the 19th day of April, 1920 in Liber Q 110, page 55 of Transfers of Patents.

That it has reason to believe that through inadvertence, without any fraudulent or deceptive intention, the specification and claim of said Letters Patent are too broad, including that of which said patentee was not the first inventor. Your petitioner, therefore, hereby enters this disclaimer to that part of the claims in said specification which is in the following words, to wit:

"12. The combination with a bearing provided with a member for receiving lubricant, of means for supplying lubricant thereto comprising a hollow member, means for supplying lubricant to said hollow member under pressure, means for detachably connecting said members, means for sealing said connection comprising a gasket positioned between said members and held against one of said members by the pressure of the lubricant, and a spring for initially positioned said gasket against said member."

SIGNED AT Chicago, in the County of Cook, and State of Illinois, this 26th day of August, 1927.

THE BASSICK MANUFACTURING COMPANY,

By _____ Vice President

ATTEST:

_____ Secretary.

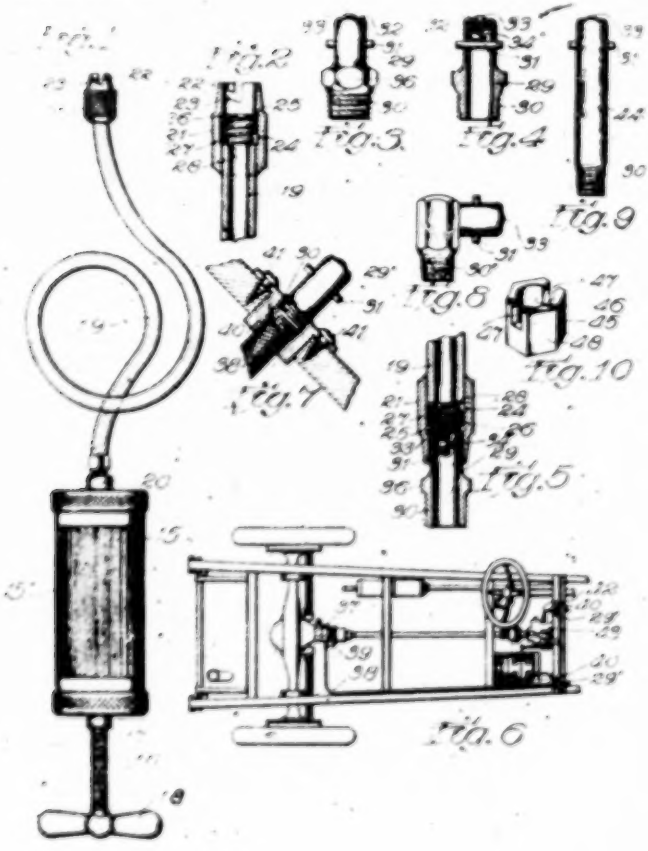
T. T. Sweeney

2-67858

2-40

Plaintiff's Exhibit No. 40.

1,307,734. Patented June 24, 1919.



Witnesses:
Earl F. Pierce

Inventor
Attorneys.

Plaintiff's Exhibit No. 40.

UNITED STATES PATENT OFFICE.

ARTHUR V. GULLBORG, OF CHICAGO, ILLINOIS.

LUBRICATING MEANS.

1,307,734. Specification of Letters Patent. Patented June 24, 1919.

Application filed December 21, 1918. Serial No. 267,856.

To all whom it may concern:

Be it known that I, ARTHUR V. GULLBORG, a citizen of the United States, residing at Chicago, in the county of Cook and State of Illinois, have invented a certain new and useful Improvement in Lubricating Means, of which the following is a full, clear, concise, and exact description, reference being had to the accompanying drawing, forming a part of this specification.

My invention relates to lubricating means, and is especially concerned with means for supplying suitable lubricants to parts of machines or apparatus requiring lubrication where these parts are difficult to gain access to, and is further concerned with the provision of apparatus for supplying lubricants under pressure to movable parts, the said means comprising a grease pump or gun provided with means for detachably connecting it with the various parts to be lubricated.

The objects of my invention are:

1st. To provide novel means for supplying a lubricant under pressure to the parts of an apparatus to be lubricated, the said means comprising a grease pump or gun and means for detachably connecting the discharge of said grease pump or gun with the part to be lubricated.

2nd. To provide novel coupling means for connecting the grease gun with the parts to be lubricated, the said coupling means being so constructed that when the coupling members are uncoupled or disconnected from each other there will be no excess lubricant on the outer ends of the coupling members.

3d. To provide novel means for effectively sealing the joint between the coupling members so that the lubricant may be forced between the parts to be lubricated under a very heavy pressure.

4th. To provide novel means whereby lubricant may be supplied to parts to which it is difficult to gain access.

5th. To provide novel coupling members to be permanently secured to the parts to be lubricated.

6th. To provide novel means to assist in attaching and detaching a tubular coupling member to a part to be lubricated.

Further objects will appear as the description progresses, reference being had to the accompanying drawing in which,

Figure 1 is a side elevation showing my improved grease gun;

Fig. 2 is a longitudinal section through the coupling member thereof;

Fig. 3 is a side elevation of one type of coupling member adapted to be secured to the part to be provided with lubricant and co-acting with the coupling member of my grease gun for connecting the discharge outlet of the grease gun with the part to be lubricated;

Fig. 4 is a longitudinal section of the structure shown in Fig. 3;

Fig. 5 is a longitudinal section through the coupling members shown in Figs. 2 and 4, but taken on a plane at right angles to the section plane of Figs. 2 and 4 showing the two coupling members united;

Fig. 6 is a more or less conventional plan view of an automobile with the body thereof removed showing the novel means which I provide for conveying lubricant to parts ordinarily difficult to gain access to, the front portion of the automobile chassis being broken away;

Fig. 7 is a sectional view showing the means for securing my coupling members to the ends of the conduits for conveying lubricant to the parts difficult of access;

Fig. 8 is a side elevation of a modified form of coupling member;

Fig. 9 is a side elevation of a still further modification of my coupling member; and

Fig. 10 is a perspective view of the means which I employ for rotating the coupling members shown in Fig. 9 in either direction to attach it to or detach it from the part to be provided with a lubricant.

Similar characters of reference refer to similar parts throughout the several views.

Referring to the drawings, the reference character 15 indicates the barrel of my improved grease gun or pump which is provided in a wellknown manner with a plunger, not shown, which is reciprocated in the barrel 15 by means of a screwthreaded piston rod 16 which co-acts with a screwthreaded nut 17, the piston 16 being provided with a handle 18. The barrel 15 is provided with ribs or corrugations 15' to insure a firm grip of the hand thereon. A flexible conduit 19, of any suitable and wellknown construction, has one end secured to the discharge outlet 20 of my pump and the other end is provided with a hollow coupling member, indicated in general by the reference character 21. The free end of this coupling member, as shown in Fig. 2, is provided with a

bayonet slot 22, the transverse portion 23 of which is inclined from the inner end of the longitudinal portion of the slot toward the outer end of the coupling member for a purpose which will be referred to later on. The bore of the coupling member is enlarged at 24 to provide an annular shoulder 25. A perforated cup leather or sealing disk 26 is slidably mounted in the annular portion 24 of the bore of the coupling and is urged against the shoulder 25 by means of a coiled spring 27, one end of which abuts against the cup leather or sealing disk 26 and the other end of which abuts against the adjacent end 28 of the conduit 19. This end of the conduit may be soldered or secured in any convenient manner to the coupling member.

Referring to Figs. 3 and 4, the reference character 29 indicates as a whole a second coupling member which co-acts with the coupling member just described. This coupling member is in general tubular in form and is provided at one end with screwthreads 30 for securing it to the part to be lubricated. A pin 31 extends through and projects from the opposite sides of the other end of the tubular member. This end of the tubular member is flanged inwardly, as indicated at 32, to form a valve seat with which the hollow capsule shaped valve 33 co-acts. A spring 34 interposed between the pin 31 and the hollow valve 33 urges the latter against the valve seat 32. My purpose in making the valve 33 hollow is, first, to provide sufficient room for the spring 34 without materially increasing the length of the coupling member, and, second, to provide means which will tend to prevent the spring 34 from buckling or flexing longitudinally when the valve 33 is pushed inwardly to admit the lubricant. My invention contemplates the provision of facets 36 to receive the jaws of a wrench whereby the coupling member may be attached to or detached from the parts to be lubricated.

In Fig. 5 I have shown the coupling members 21 and 29 coupled together. In this position it will be noted that the spring 27 is partially compressed and that the sealing disk 26 is displaced from the annular shoulder 25 by the end of the coupling member 29. When the piston of the gun pump is actuated to force lubricant through the conduit 19 under pressure this pressure will cause the sealing disk 26 to seal the joint between the two coupling members and thus prevent any escape of lubricant over the sides of the coupling member 29. On account of the fact that the transverse portion 23 of the bayonet slot in the coupling member 21 is inclined toward the open end of this coupling member it is necessary in order to detach this coupling member from the coupling member 29 to move it toward the coupling member 29. This movement causes an additional small quantity of lubricant to be forced into the coupling member 29. When the coupling member 21 is then turned to permit the pin 31 to slide in the longitudinal portion of the slot 22 the sealing disk 26 is moved toward the end of this coupling member 29 under the pressure of the spring 34. This causes the sealing disk 26 to move toward the outer end of the coupling member 21 and thereby produces a slight vacuum which causes any grease which might otherwise remain on the outer end of the coupling member 29 or the outer side of the valve 33 to be sucked back behind the sealing disk 26, and thereby prevents any excess of lubricant from remaining on the end of the coupling member 29 or on the outside of the valve.

From the above description it will be seen that I have provided means for conveying a lubricant to the part or parts to be lubricated which not only prevents the loss of lubricant, even though the lubricant may be forced between the bearing surfaces under very high pressure, but also prevents the lubricant from remaining upon exposed portions of the coupling members after these have been uncoupled, and subsequently lost. This feature is of importance where, as I will describe later on, the coupling members are located at readily accessible points and where, in case the parts being lubricated form a part of a motor vehicle or other similar structure, the clothes of the operator are likely to come in contact with these coupling members.

Referring to Fig. 6 in which I have disclosed a portion of a motor vehicle with the body thereof removed, the reference character 37 indicates a bearing in the differential casing which is supplied with lubricant by a conduit 38 connected therewith by a suitable hollow coupling 39. The other end of the conduit 38 is brought forwardly in the vehicle and is secured to either the dash or the instrument board, as may be found convenient, by means of a floor socket 40, shown in detail in Fig. 7, which is secured in place by means of the screws 41 and is provided with an internal screwthread for receiving the screwthreaded portion 30 of a coupling member 29'. This coupling member 29' is similar to that shown in Figs. 3 and 4, except that it is not provided with the facets 36 for receiving the jaws of a wrench. The forward end of the conduit 38 may be soldered or otherwise secured in the socket 40. The reference character 42 indicates another conduit for conducting oil from the coupling member 29' to the transmission housing 43.

While I have illustrated means for conducting lubricant to but two portions of this automobile vehicle it is to be under-

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Plaintiff's Exhibit No. 40.

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stood that conduits similar to 38 and 42 may be used for conducting lubricant to any portion of the vehicle which it is desired to lubricate. Furthermore, this feature of my invention is not to be limited to means for lubricating motor vehicles, but is capable of being used for lubricating any apparatus whether the parts to be lubricated are or are not difficult of access.

In Fig. 8 I have shown a modified form of a coupling member to be secured to a part to be lubricated. This coupling member is L shaped and one end thereof is provided with screwthreads 30' and the other end thereof being provided with a pin 31 and a spring-pressed valve or closure 33 similar to that described in connection with Figs. 3 and 4. The purpose of this coupling member is to provide means for connecting the coupling member 21 with a part to be lubricated which would otherwise be difficult of access if provided with a straight coupling member such as that shown in Figs. 3 and 4.

In Fig. 9 I have disclosed a still further modification of my coupling member wherein it is formed from a tubular member 44 of substantially constant diameter which is not provided with means for co-acting with a wrench to attach or detach it to the part to be lubricated. In order to thus attach or detach this member I provide the means illustrated in Fig. 10. This means comprises a sleeve-like member 45 having a bore 46 therein for receiving the tubular member 44 and slots 47 for receiving the ends of the pin 31 of the tubular member 44. The member 45 is provided with facets 48 for co-acting with a wrench or other tool for rotating this sleeve.

While I have described the preferred embodiments of my invention it is to be understood that it is capable of other adaptations and modifications within the scope of the appended claims.

Having thus described my invention what I claim as new and desire to secure by Letters Patent of the United States is:

1. The combination with a hollow coupling member having a pin projecting from one side thereof and a spring-pressed closure, of a pump having a flexible conduit connected with the outlet thereof, a second hollow coupling member secured to the other end of said conduit for receiving the closed end of said first named coupling member and provided with a bayonet slot for receiving said pin, the transverse portion of said slot being inclined from the longitudinal portion thereof toward the outer end of the coupling member, the bore of said coupling member being enlarged to provide a shoulder, a perforated sealing disk slidably mounted in the enlarged portion of said bore, and a spring confined between the ends of said conduit and said disk for urging said disk against said first named coupling member.

2. The combination with a hollow coupling member having a pin projecting from one side thereof and a spring-pressed closure, of a pump, a discharge conduit having one end secured to the outlet of said pump, a second hollow coupling member for receiving the closed end of said first named coupling member secured to the other end of said conduit and provided with a bayonet slot adapted to co-act with said pin, a perforated sealing disk mounted to reciprocate in the bore of said coupling member, means for yieldingly urging said sealing disk against the closed end of said first named coupling member, and means for limiting the movement of said sealing disk in the direction of said second coupling member.

3. The combination with a hollow coupling member having a spring-pressed closure, of a pump, a discharge conduit having one end secured to the outlet of said pump, a second hollow coupling member for receiving the closed end of said first named coupling member secured to the other end of said conduit, a perforated sealing disk mounted to reciprocate in the bore of said coupling member, means for yieldingly urging said sealing disk against the closed end of said first named coupling member, and means for limiting the movement of said sealing disk toward said second coupling member.

4. The combination with a hollow coupling member having a spring-pressed closure, of a pump, a discharge conduit having one end secured to the outlet of said pump, a second hollow coupling member for receiving the closed end of said first named coupling member secured to the other end of said conduit, a perforated sealing disk mounted to reciprocate in the bore of said coupling member, and means for yieldingly urging said sealing disk against the closed end of said first named coupling member.

5. The combination with a pump having a flexible conduit connected with the outlet thereof, of a hollow coupling member secured to the other end of said conduit and provided with a bayonet slot, the transverse portion of said slot being inclined from the longitudinal portion thereof toward the outer end of the coupling member, the bore of said coupling member being enlarged to provide a shoulder, a perforated sealing disk slidably mounted in the enlarged portion of said bore, and a spring confined between the ends of said conduit and said disk for urging said disk toward said shoulder.

6. The combination with a pump having a discharge outlet, of a coupling member connected with said discharge outlet and provided with a bayonet slot, the transverse

portion of said slot being inclined from the inner end of the longitudinal portion thereof toward the outer end of said coupling member, a perforated sealing disk slidably mounted in the bore of said coupling member, and means for yieldingly urging said sealing disk toward the outer end of said coupling member, and means for limiting the movement of said sealing disk toward the outer end.

7. The combination with means for supplying lubricant under pressure, said means comprising a discharge outlet, of a coupling member connected with said discharge outlet, a perforated cup leather slidably mounted in said coupling member, and means for yieldingly urging said cup leather toward the outer end of said coupling member.

8. The combination with an apparatus having a part to be lubricated, of a conduit for conducting lubricant to said part, a coupling member secured to the end of said conduit and provided with a spring-pressed valve closure, means for supplying lubricant to said conduit comprising a receptacle provided with a discharge outlet, a second coupling member connected with said discharge outlet, means for detachably uniting said coupling members, and means for sealing the joint between said coupling member and for removing excess lubricant from the adjacent ends thereof when said coupling members are uncoupled.

9. The combination with an apparatus having a part to be lubricated, of a conduit for conducting lubricant to said part, a coupling member secured to the end of said conduit and provided with means for supplying lubricant to said conduit comprising a receptacle provided with a discharge outlet, a second coupling member connected with said discharge outlet, means for detachably uniting said coupling members, and a pliable gasket for sealing the joint between said coupling members.

10. The combination with an apparatus having a part to be lubricated, of a conduit for conducting lubricant to said part, a coupling member secured to the end of said conduit and provided with means for supplying lubricant to said conduit comprising a receptacle provided with a discharge outlet, a second coupling member connected with said discharge outlet, and means for detachably uniting said coupling members and for removing excess lubricant from the adjacent ends thereof when said coupling members are uncoupled.

11. The combination with a bearing provided with a member for receiving lubricant, of means for supplying lubricant thereto comprising a hollow member, means for supplying lubricant to said hollow member under pressure, means for detachably connecting said members, and means for sealing said connection comprising a gasket positioned between said members and held against one of said members by the pressure of the lubricant.

12. The combination with a bearing provided with a member for receiving lubricant, of means for supplying lubricant thereto comprising a hollow member, means for supplying lubricant to said hollow member under pressure, means for detachably connecting said members, means for sealing said connection comprising a gasket positioned between said members and held against one of said members by the pressure of the lubricant, and a spring for initially positioning said gasket against said member.

13. The combination with a receptacle for receiving lubricant, of means for supplying lubricant to said receptacle comprising a hollow member, means for forcing lubricant into said hollow member under pressure, and means for connecting said hollow member to said receptacle in fluid-tight relation comprising a pliable member positioned in said hollow member and having one face for contacting with said receptacle, the other face of said pliable member being subjected to the pressure of the lubricant in said hollow member.

14. The combination with a grease cup comprising a tubular member having one end flanged inwardly to provide a closure seat, a closure, a pin extending through said tubular member and from both sides thereof, and a spring confined between said pin and closure, and tending to hold said closure on its seat, of a grease pump having a discharge conduit, and means co-acting with the ends of said pin for detachably connecting the discharge end of said conduit with said grease pump.

15. The combination with a grease cup comprising a tubular member having a closure seat, a closure, a pin extending through said tubular member and from both sides thereof, and a spring confined between said pin and closure, and tending to hold said closure on its seat, of a grease pump having a discharge conduit, and means co-acting with the ends of said pin for detachably connecting the discharge end of said conduit with said grease cup.

16. The combination with a grease gun having a discharge conduit, of means for connecting said conduit with a bearing comprising a tubular member, co-acting means on said conduit and said tubular member for detachably connecting said conduit and tubular members, and a flexible member for sealing the joint between said conduit and said tubular member, said flexible member having an aperture for the passage of lu-

Plaintiff's Exhibit No. 13

lubricant from said conduit to said tubular member, a portion of one face of said flexible member being positioned so as to be subjected to any pressure created in said conduit to force it against said tubular member.

17. The combination with means for supplying lubricant under pressure comprising a discharge member of means for connecting said discharge member to a bearing comprising a tubular member and means for detachably connecting said members in sealed relation comprising means subjected to the pressure created in said members, the said means being positioned between said members and held against one of said members by said pressure.

18. The combination with a member for receiving lubricant, of means for supplying lubricant thereto under pressure comprising a tubular member, means for detachably connecting said tubular member to said lubricant-receiving member in sealed relation comprising a flexible member provided with an aperture for the passage of lubricant, one face of said member being subjected to the pressure of the lubricant.

In witness whereof I hereunto subscribe my name this 14th day of December, 1918.

ARTHUR V. GULLBORG.

Witnesses:
JOHN E. CARLSON,
JOHN L. STEPPER.

DISCLAIMER.

1,307,784.—*Arthur V. Gullborg*, Chicago, Ill. LUBRICATING MEANS. Patent dated June 24, 1919. Disclaimer filed August 29, 1927, by the said inventor by mesne assignments, *The Bassick Manufacturing Company*.

Hereby enters this disclaimer to that part of the claims in said specification which is in the following words, to wit:

"12. The combination with a bearing provided with a member for receiving lubricant, of means for supplying lubricant thereto comprising a hollow member, means for supplying lubricant to said hollow member under pressure, means for detachably connecting said members, means for sealing said connection comprising a gasket positioned between said members and held against one of said members by the pressure of the lubricant, and a spring for initially positioning said gasket against said member."

[*Official Gazette September 13, 1927.*]

335

Plaintiff's Exhibit No. 40.

130774

421

1918

CONTI

1. *Application* _____ *papers.*
2. [illegible]
3. Amendment a MAR 10 1919
4. Amendment a MAR 20 1919
5. Amendment Rule 78 MAY 5- 1919
6. Notice of entry of Amendment May 14
7. Power & Deputy 6-2-19
8. Ex'd & Amended JUN 12 1919

10

336
Plaintiff's Exhibit No. 40.

A. V. GULLBORG.
LUBRICATING MEANS.
APPLICATION FILED DEC. 21, 1918.

1,307,734.

Patented June 24, 1919.

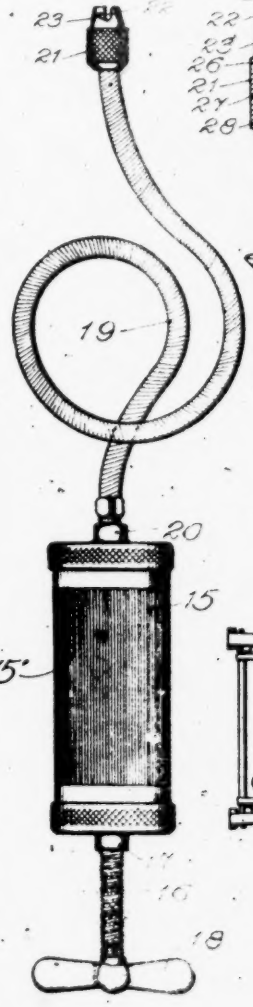

Fig. 1

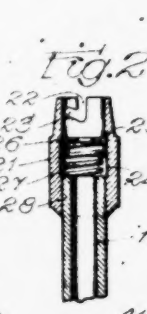

Fig. 2

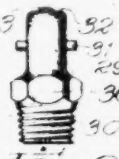

Fig. 3

Fig. 4

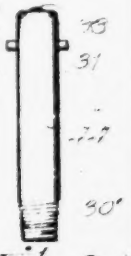

Fig. 9

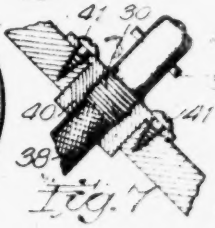

Fig. 7

Fig. 8

Fig. 10

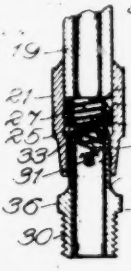

Fig. 5

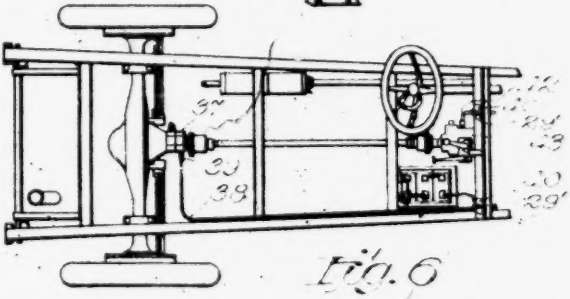

Fig. 6

Witnesses:
Cyndrus Winterscom
Earl A. Pierce

Inventor
Arthur V. Gullborg
Williams, Bradbury & Lee
Attys.

Plaintiff's Exhibit No. 41.
337

REX DUPLEX HIGH PRESSURE GUN

IS adaptable to all lubricating systems and connectors; equipped with REX DUPLEX 10,000 lb. Pressure Hose, with coupler complete, automatic self feeding. The REX Hand Gun will develop 7000 lbs. pressure, capacity $1\frac{1}{4}$ lbs.

No sheering of pins or need of pliers to release coupler when under pressure. REX coupler will not pull off under pressure. REX gun and hose are guaranteed against leakage. Sold complete or in separate units as required.

FULTON BUILDING. **REX DUPLEX FITTING COMPANY** PITTSBURGH, PA.

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Plaintiff's Exhibit No. 12

REX DUPLEX HIGH PRESSURE

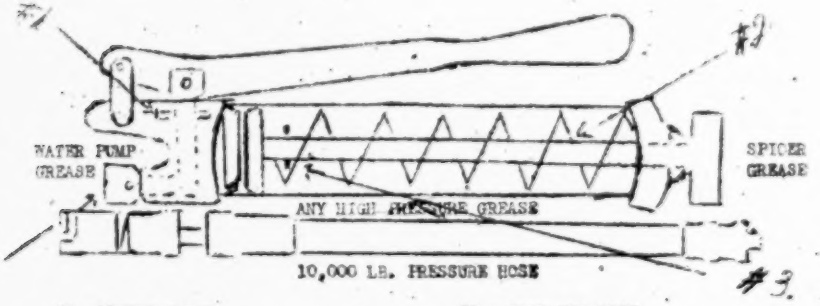
GREASE HAND GUN

7,000 LB. PRESSURE

GOOD BY AIR POCKETS

#1 - BYPASS CHECK
The Bypass Check at the top of the pressure chamber eliminates any possible chance of grease bypassing under pressure.

#2 - COMPRESSION SPRING
The compression spring in the storage chamber insures a constant flow of grease into the pressure chamber as the grease is dispensed.



#4 - CHECK VALVE
The check valve will hold the pressure in the hose and prevents grease or air returning into the pressure chamber from the hose.

#3 - SLOT PIN LOCK
The slot pin lock is located at the base of the piston handle, which will lock the piston at the pull back position after filling the grease chamber, while the operator fastens the head of the chamber tube.

GENERAL SPECIFICATIONS

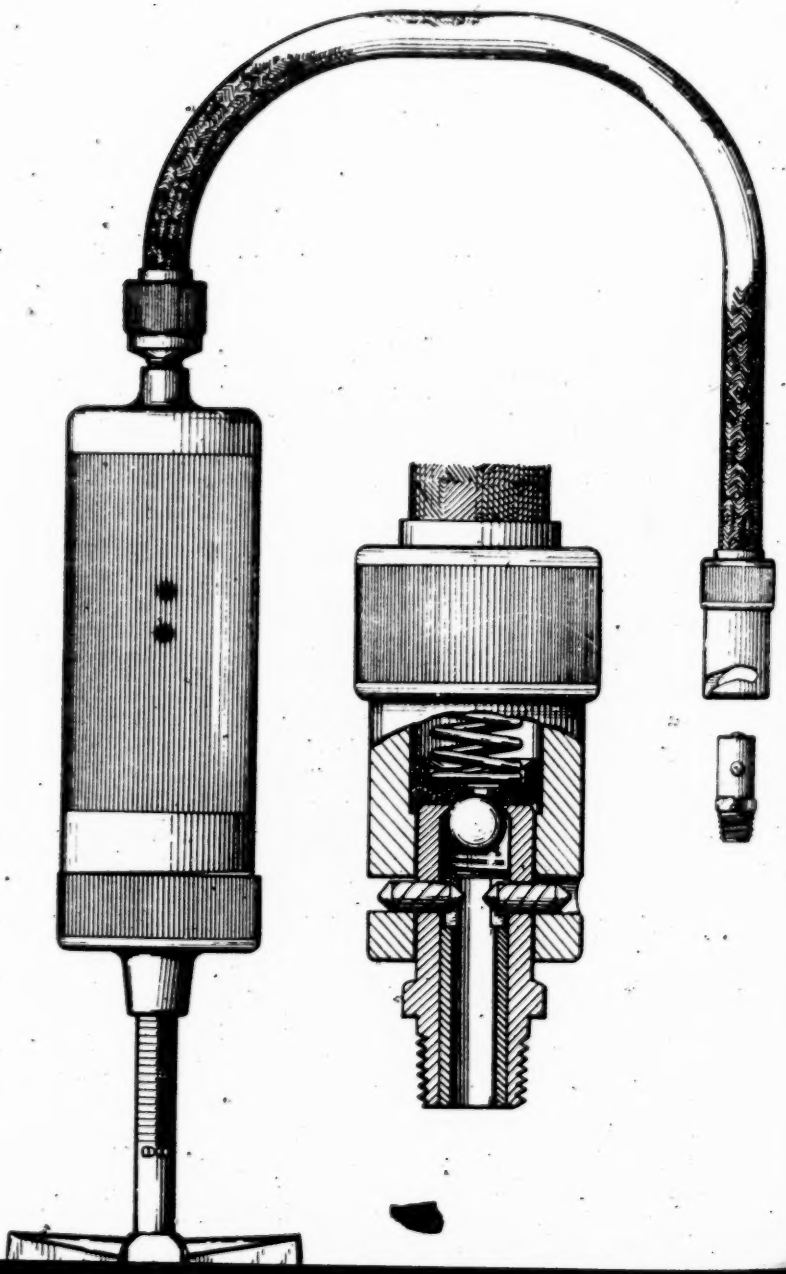
The Rex Duplex High Pressure Hand Gun will develop 7,000 Lb. pressure with a capacity of 1½ Lbs. The main storage tube has a high nickel finish with a four and one-half inch knearled section. The malleable fittings are finished in aluminum. The lever handle top is finished in red. Each complete gun and hose is packed in an individual strong carton, convenient for express or parcel post shipping. An instruction tag is attached to each gun with full detailed instructions for filling and operating.

A Rex 10,000 Lb. High Pressure Grease Hose with a Rex Duplex Coupler complete is supplied with each unit, which is adaptable to all lubricating systems and connections. No shearing of pins or need of pliers to release coupler when under pressure. Rex Coupler will not pull off under pressure. Rex Gun and Hose are guaranteed against leakage. Sold complete or in separate units, as required. PRICE.....$10.50 each.

REX DUPLEX FITTING SALES CO.
Fulton Building Pittsburgh, Penna.

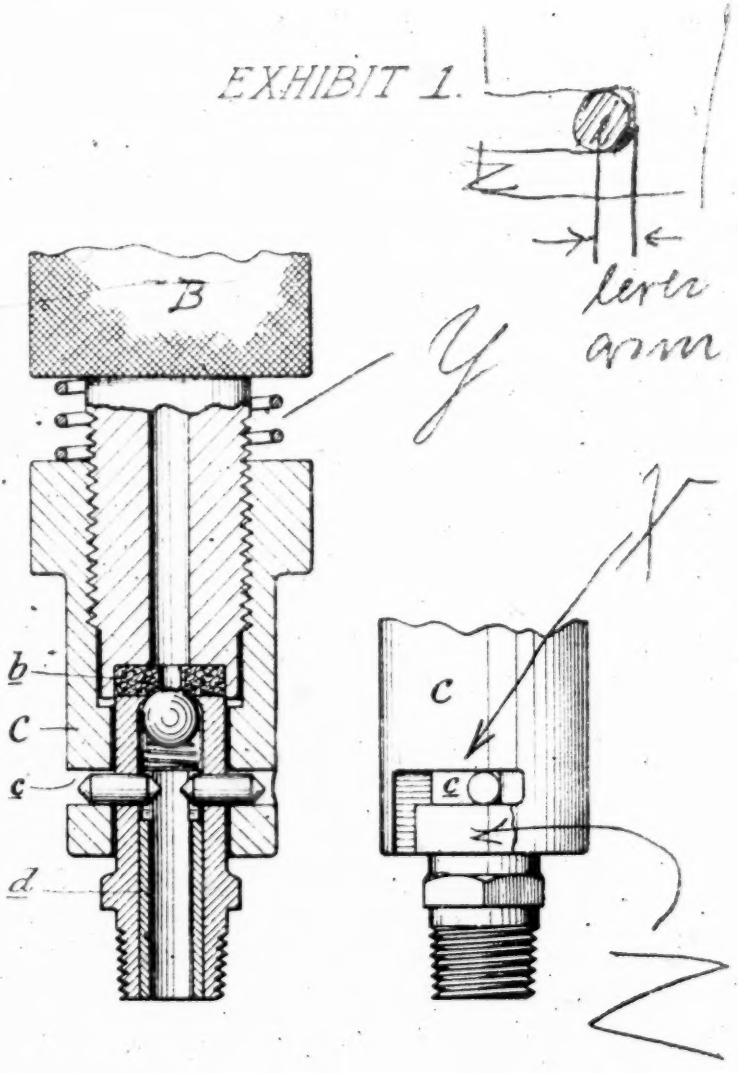
Plaintiff's Exhibit No. 45.

Plf's Ex # 45
11/3/33 HC



Defendant's
07/31 H.C.F.

EXHIBIT 1.



Defendants Ex "C"
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EXHIBIT. 2.

Fig.5.

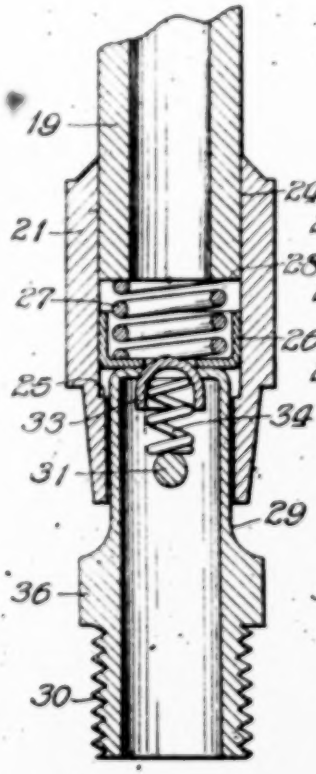


Fig.5a.
UNDER PRESSURE

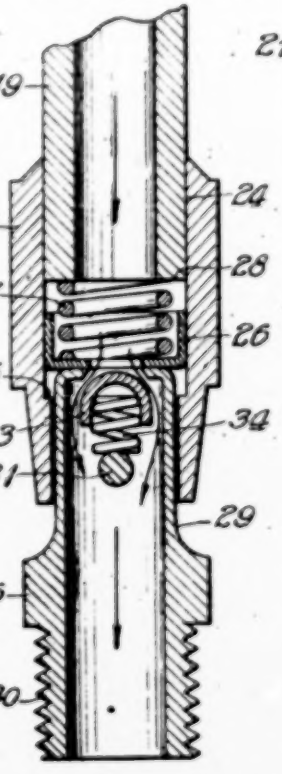
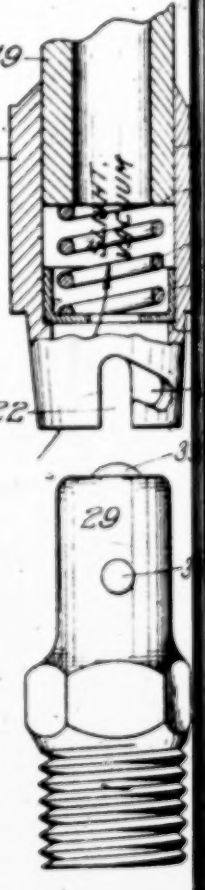


Fig.5

COUPLER DETA
FROM FITTI



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Defendants' Exhibit D.

Defendant's Exhibit D
4/3/13 MCT

RÉPUBLIQUE FRANÇAISE

OFFICE NATIONAL DE LA PROPRIÉTÉ INDUSTRIELLE

BREVET D'INVENTION

V. . . Machines.

3. . . Organes, accessoires et extraction des machines

N° 468.869

Dispositif de raccord instantané pour fluides sous pression et application du dit raccord pour le graissage sous pression.

M. Camille SEMG résidant en France (Aube).

Demandé le 24 février 1914, à 11h 55m, à Paris.
Délivré le 5 mai 1914. — Publié le 18 juillet 1914.

La présente invention a pour objet un dispositif de raccord instantané pour fluides sous pression, lequel se caractérise essentiellement en ce que les deux parties de l'accouplement sont solidarisées ou séparées l'une de l'autre par le déplacement longitudinal, sur l'une des dites parties, d'une douille de manœuvre destinée à actionner des leviers, griffes ou autres organes d'assemblage, ces organes venant ou non en prise avec l'autre partie de l'accouplement qui possède, dans ce but, un bourrelet d'engagement ou autre moyen équivalent. Plus particulièrement, le raccord peut être constitué par un corps possédant un chambrage à l'intérieur duquel peut être introduite l'autre partie de l'accouplement qui s'appuie sur une garniture élastique assurant l'étanchéité du joint. La liaison s'opère au moyen de griffes ou analogue dans le chambrage et qui sont articulées dans des fentes du raccord, les dites griffes étant prolongées au-delà de leur articulation par des bras rainurés qui pénètrent dans des fentes de la douille de manœuvre et sont entraînées par cette dernière au moyen d'axes pénétrant dans les rainures des dits bras.

Ce système de raccord instantané trouve plus particulièrement son application dans le cas où il s'agit de réaliser un graissage sous pression au moyen d'huile, de graisse consistante, etc. Dans ce cas, le raccord, qui est réuni au tuyau du mécanisme de refoulement: pompe ou autre, peut être fixé à volonté, par la manœuvre de la douille entraînant les griffes, sur le bourrelet d'accrochage dont le graisseur doit être muni dans ce but. Ce bourrelet peut être formé sur un chapeau qui forme le graisseur et qui comporte une ouverture constituant un siège pour un obturateur soumis à l'action d'un ressort intérieur.

Sur les dessins annexés et à titre d'exemple:

La fig. 1 représente, partie en élévation, partie en coupe verticale, une forme de réalisation du dispositif de raccord instantané faisant l'objet de l'invention.

La fig. 2 en est une coupe correspondante en plan.

Les fig. 3 et 4 montent respectivement en coupe verticale suivant XY et en plan une forme de réalisation d'un graisseur à bille, qui a été plus particulièrement étudié pour se combiner avec le dispositif de raccord instantané, dans le cas de graissage sous pression.

Le dispositif de raccord instantané se compose de deux parties principales: d'une part, un corps *a*, d'autre part une douille de manœuvre *b* susceptible de coulisser sur le corps *a*.

Le corps *a*, qui constitue une sorte de cuvette destinée à recevoir l'organe sur lequel le

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raccord doit être fixé, porte dans le rebord définissant la dite cuvette un certain nombre de fentes recevant respectivement des leviers c^1, c^2, c^3 formant griffes. Ces leviers c^1, c^2, c^3 sont articulés sur le corps *a*, au moyen d'un fil *f* se logeant dans une gorge convenablement disposée à cet effet. Les leviers X pénètrent également dans des fentes correspondantes ménagées dans la douille *b*, qui peut être déplacée longitudinalement par rapport au corps *a*. Chaque levier est pourvu d'un bec d'accrochage faisant saillie dans la cuvette du corps *a* et constitue, par son autre bras, une fourche de manœuvre. Les fourches de manœuvre sont solidarisées par un fil *e* disposé dans une gorge de la douille déplaçable *b*. Cette dernière porte également, dans une gorge, un autre fil *g* qui peut venir, lors de ses déplacements dans un sens ou dans l'autre, s'engager dans des rainures *k* ménagées sur le corps *a*, ce qui l'immobilise dans les positions extrêmes qu'elle peut ainsi occuper. Un fil *h* sert en outre de butée.

Un anneau de caoutchouc *i* est disposé au fond de la cuvette et sert d'appui à l'organe à accoupler G, les griffes c^1, c^2, c^3 agissant pour l'appliquer sur le dit anneau *i* qui se comprime et forme ainsi joint étanche.

On voit que dans la position (fig. 1), la douille *b* étant repoussée sur le corps *a* et vers l'organe à accoupler G, les griffes c^1, c^2, c^3 font saillie à l'intérieur du corps *a* et, prenant appui sur le bourrelet *d* de l'autre partie de l'accouplement G, l'appliquent sur l'anneau interne de caoutchouc *i*. On remarque que toute traction opérée sur le corps *a* ne peut en aucun cas provoquer le désaccouplement.

Au contraire, en attirant la douille *b*, le fil *e* appartenant à cette dernière bascule les leviers c^1, c^2, c^3 et permet le dégagement de l'organe G précédemment accouplé; la douille *b* étant immobilisée en cette position par l'engagement du fil *g* dans la gorge correspondante *k*.

Ce dispositif de raccord instantané, qui peut être utilisé pour assurer la jonction de deux canalisations où circule tout fluide et, en particulier, tout fluide sous pression, peut être particulièrement utilisé quand il s'agit de réaliser un graissage sous pression par de l'huile ou de la graisse consistante. Dans ce but, on peut avoir recours à un dispositif de graisseur à bille formant obturateur et comportant un bourrelet extérieur pour l'accrochage et la fixation du raccord. (fig. 1 et 2).

Comme on le voit en fig. 3, 4, ce graisseur est constitué par un corps chambré A, percé d'un canal D formant conduit pour le lubrifiant. Un prolongement fileté permet la mise en place du graisseur. Dans le chambrage, qui est fileté intérieurement, se visse un bouchon B portant le bourrelet sur lequel se fixent les griffes c^1, c^2, c^3 du raccord (fig. 1, 2), pour réaliser l'accouplement avec la pompe destinée à refouler le lubrifiant. Dans l'exemple représenté, le bouchon B est, en outre, évidé intérieurement pour recevoir une bille *c*, qu'un ressort interne R pousse constamment pour assurer la fermeture du graisseur.

Résumé :

1° Raccord instantané, caractérisé en ce que les deux parties de l'accouplement sont solidarisées ou séparées l'une de l'autre par le simple déplacement longitudinal, sur l'une des dites parties, d'une douille de manœuvre; cette dernière déterminant la manœuvre de leviers, griffes ou autres organes de fixation qui appartiennent à la partie correspondante de l'accouplement et qui font ainsi saillie ou non à l'intérieur de cette dernière, pour assujettir ou libérer l'autre partie qui y est engagée.

2° Forme de réalisation du raccord instantané spécifié en 1°, caractérisé en ce que dans des fentes d'un corps chambré comportant intérieurement un anneau de joint et d'étanchéité, sont disposés des leviers ou griffes articulés, se prolongeant par des bras en forme de fourche; ces leviers étant déplacés de manière à ce que leurs nez fassent ou non saillie dans le chambrage, pour prendre appui sur ou libérer le bourrelet appartenant à l'autre partie de l'accouplement, lorsqu'on déplace longitudinalement une douille coulissante sur le corps; cette douille présentant des fentes pour les leviers ou griffes et portant un dispositif d'entraînement pénétrant dans les bras rainurés de ces derniers.

3° Application du raccord spécifié en 1° ou 2°, plus particulièrement dans le cas de graissage sous pression, caractérisée en ce que le raccord qui dépend, par exemple, d'un tuyau

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de refoulement d'une pompe, se fixe ou se sépare à volonté du graisseur qui comporte, dans ce but, une bourrelet ou autre moyen d'accrochage se conjugnant avec les griffes ou leviers de fixation; le bourrelet de fixation appartenant à un bouchon qui ferme le corps du graisseur et dont l'ouverture forme siège pour un obturateur : bille ou clapet, soumis à l'action d'un ressort interne.

CAMILLE SEAG.

Defts Ex ℔ 3

N° 468.869 M. Seng Pl. unique

Fig. 1.

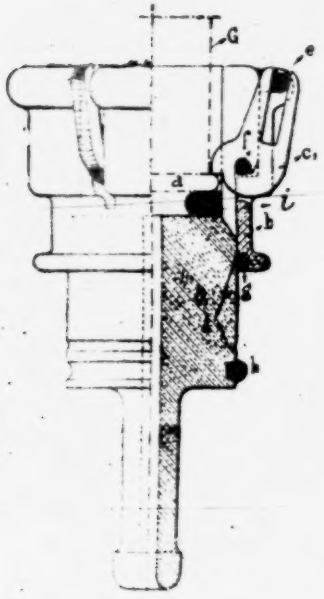


Fig. 5.

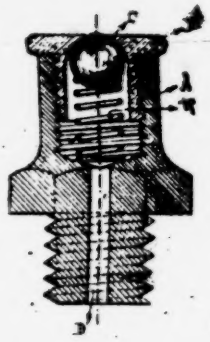


Fig. 2.

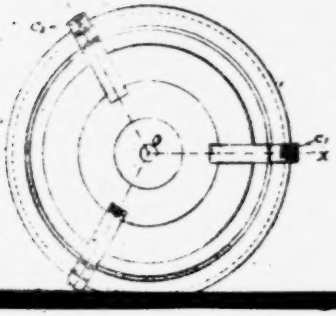
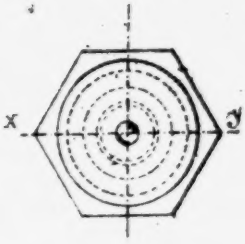


Fig. 4.



[fol. 346] Clerk's Certificate to foregoing transcript omitted in printing.

Endorsed on cover: File No. 39,534. U. S. Circuit Court of Appeals, Third Circuit. Term No. 31. G. S. Rogers, doing business as Rex Duplex Fitting Company and R. W. Dusenberry, Petitioners, vs. Alemite Corporation. Petition for a writ of certiorari and exhibit thereto. Filed April 24, 1935. File No. 31, O. T., 1935.